J. 78-94

G. R. S. IX-5]

Previous references.

1891

~~191~~

( )

File No. 11 - 91

Serial Nos. 1-56

Later references.

No 137-21 (1-12)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-56

on **Part B for** Sept 91

SUBJECT.

Alterations & additions to The Extradition Act XIII of 1859

---

rendered

Countermarked

W D 88—GPB—50,000—24-7-16

MEMO OF PAPERS CIRCULATED TO COUNCILLORS

(23)

SUBJECT.

Letter No. 3188 dated 15th August from the First Asst to the Resident regarding the extension of the foreign Jurisdiction Act Schedule and correspondence connected with the same.

1) Letter dated 27th August from Mr. T. G Hanicutta Mahadeva Kotale Mudgere Taluk, asking that a warrant to arrest one Kantappa may be applied for & the Govt of Madras, with the issued Drafts thereof. Just file No 8 of 1894

By order

August 1895

General Secretary.

To—

Rajadharma Pravina
T. R. A. Thumboo Chetty, Esq., C.I.I

The Revd. Lutha
[illegible] 30/8

P. N. Krishna Murti, Es

Khan Bahadur Abdul Rahman, Es 3/9/95

General Secretary

~~The Dewan~~

G.R.S. III.—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

T—14.

Class. D.D. INDIAN TELEGRAPH. (Service Instruction)

To Station Bangalore Fort From Station Mysore

Words.	Day.	Hour.	Minute.	Official Instruction
28	6	17	35	urgt-Revenue Board Submitted

To (Person) V. Ramasummayya Esq C.I.E. From (Person) R.Rewan

General Secretary to Govt Madras

Send tonight entire file connected with Hamiltons Inundation applic-ation

Recd 6.35 P.M.

3.9.95

Recd. from L. N. A. Hrs. Mts. By

Sent to At Hrs. Mts. By

BANGALORE FORT 3 SEP 95 N.T.

Postmaster.

Date

N. B.—Should routine notes be written on small slips, the notes must be copied or slips pasted on this form.

RSM. 592

(27)

Memorandum

The Dewan's telegram was recd at 6·50 P.M. requiring the file regarding the application of Mr. Hamilton for the arrest & extradition of Kantappa.

It is herewith submitted.

The Residency letter No 3441 of 3·9·95 which was recd this morning is closed up. As it was marked urgent, a D.O. letter was written to the Ist Assistt asking whether the descriptive Roll of the accused should be prepared here & full particulars obtd from Mr. F. which would entail delay. Capt Jenkins's reply recd at 8 P.M. is also submitted

3·9·95
9·30 P.M.

To the Dewan

Copy in the file

(2)

MEMO OF PAPERS CIRCULATED TO COUNCILLORS

(31)

SUBJECT

Letter No. 49 dated 4-10-95 from the Head Assistant to the Resident submitting a financial requisition for Rs. Kaikatha amounting to Rs. 1,00,000 being the difference between the Budget Allowance of 1894-95 and the actual expenditure of 1894-95

By order

[signature]

8 October 1895

General Secretary.

To—

Rajadharma Pravina
T. R. A. Thumboo Chetty, Esq., C.I.E.

Received by the Councillors

P. N. Krishna Murti, Esq.

8/10/95

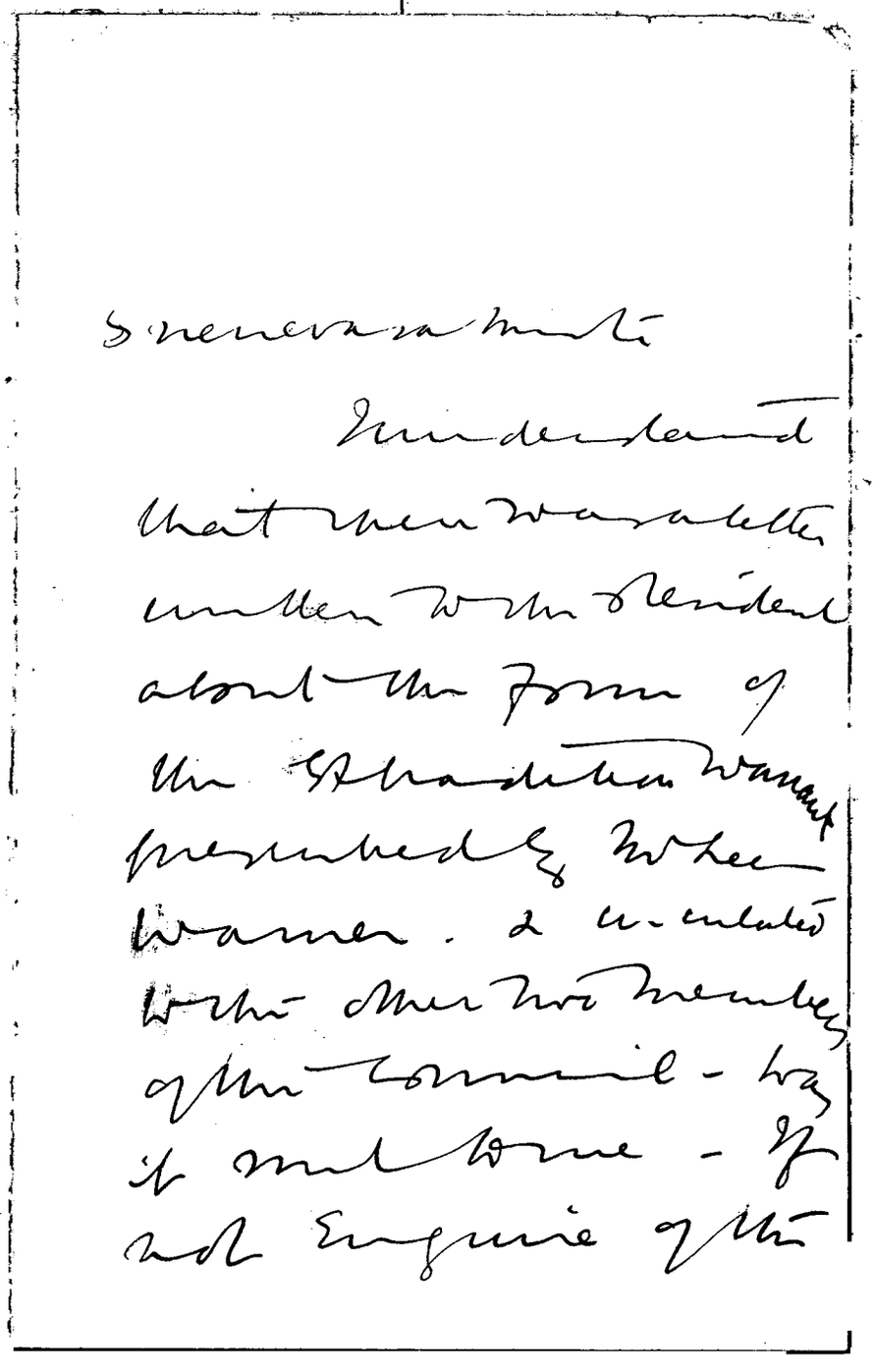
Khan Bahadur Abdul Rahman, Esq. 9-10-95

The ~~Dewan~~ Joint Secretary

G.R.S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]



N. B.—Should routine notes be written on small slips the notes must be copied or slips pasted on this form

(34)

MEMO OF PAPERS CIRCULATED TO COUNCILLORS

For information

SUBJECT.

Letter No 42 D dated 6 Dec 1895 addressed to the Resident in Mysore proposing certain alteration in the form of requisition for attendance of Offenders under the Prohibition Act - with connected papers and file

File No 8 of 1894-95

By order,

11 Dec 1895

General Secretary.

Rajadharma Pravina
T. R. A. Thumboo Chetty, Esq., C.I.E.

P. N. Krishna Murti, Esq. 15/12/95

Khan Bahadur Abdul Rahman, Esq. 11-12-95

The Dewan. Under Seig

This paper was circulated to the other Councillors at Bangalore. The second Councillor was in Mysore. There was a delay of a couple of days in sending the papers to Mysore and in circulating this file. D 2 to Councillors at the usual Circle

17/12/95

Memo of papers circulated to Councillors (36) for information

Subject

Letter No. 4995 dated 16th December 1895 from the Residency in re modification of the form of requisition for extradition of offenders under Sec 14 of the Extradition Act.

(with file)

Muhammad

To
Rajadharma Pravina
S. R. A. Shanmoogha Chetty C.S.I.

C.P. 15.

To
C. V. Krishna Murthy Esqr
Dated 1896

To
Khan Bahadur
Abdul Rahaman Esqr.

20/12/96

To
Under Secretary

Rec'd 8-12-97
per messenger
5-12-97

3/12

(60)

My dear Sir

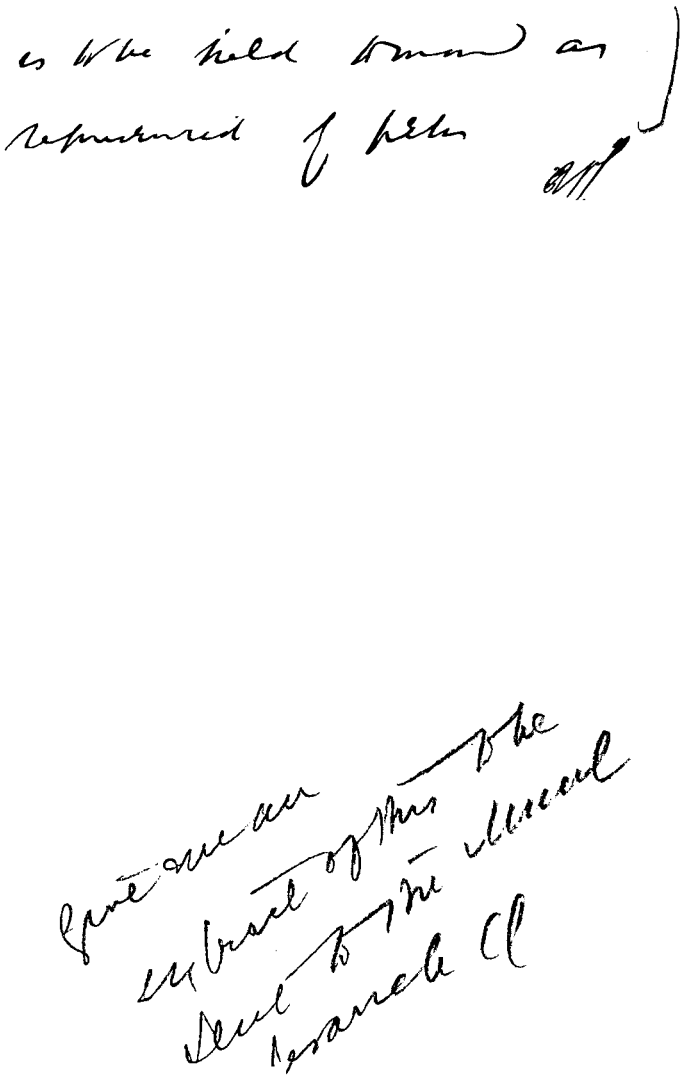
I would like to see the draft letter to Sendaway re Wyche before it goes — To enable the Resident Minister (if so desired) the Hamburg Govt under S 189 Cod/de to direct that copies of depositions taken by Exhibits produced before the Police Magistrate at is necessary the trial should be taken from a Ct matter under enquiry before yr 189 S 503 This must be made clear in any letter to Sendaway for doubt as a criminal case the Govt of a Colony will be a most

unsolicited comm y proceeds
some dangerous & the interests
of this province but all these
may be left to decide many regard to the
means
expended
& Return of your
messenger with
letter

Yours &c

A Richmond Esq

If in that case y Archbishop
Cashel writes, You may
write a line to Mr Leonard
the rec'd bad certificate
what are the facts
for whether any answer



GOVERNMENT OF MYSORE

67

My dear Sir

Monday will suit me for the proposed Council meeting

I return the file which you were so kind as to allow me to peruse and enclose herewith the memorandum on the question of adopting Land-revenue Code of Bombay in the Districts of Bombay & the letter from the Secretary to the Government of India in the Revenue Department

Yours

3 12 97

7 am

(62)

Please send to
Tower Hotel Cardiff

Postponed pending
investigation Norman
Lee Wyche re arrest
& report

[illegible]

3-12-97

Also need a copy
of the Standard
letter to Egham
at once

[illegible]

3-12-97

Telegram sent.
[illegible]
5/12/97

OFFICE OF THE
419-
12 APR. 92
16
DEPUTY COMMISSION OF MYSORE

(General Serial No. 30)

1892

From The 1st Asst to the Resident in Mysore

(4)

To

Secretariat
Old No 11-91
Serial No 1

Dated 12 April/92

Despatched

Received

Enclosures No.

General No. 1167

No. 479.S

Requesting to be favored with full explanation of the wish of the Durbar with reference to the exclusion in the schedule of the Extradition act of the particular offences referred to in the memo of the Judges of the Chief Court and affecting the European Coffee Planters

No. 718/50 dt. 12/19 April 1892
Transferred to the Legislative Secretary
By order
P. Narasaiya
Chief Secretary

12 April/92

OFFICE OF THE SECRETARY'S
MYSORE
4 JUL. 32

R 94 of 92

(4)

No. 1167
479·8

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

[illegible]

The Dewan of Mysore.

Dated Bangalore, 12 April *1892.*

SIR,

I am directed to refer you to paragraphs 17 and 18 of the Memorandum recording the opinion of the Judges of the Chief Court on the Railway Jurisdiction in Mysore and to ask that the Resident may be favoured with a full explanation of the wish of the Durbar with reference to the inclusion in the schedule of the Extradition Act [act XXI of 1879] of the particular offences referred to in those paragraphs and affecting the European Coffee-Planters.

2. While suggesting remedies for the grievances of the coffee planters in this direction, the Resident is of opinion that any proposed alteration or addition to the Extradition Act might be so framed as also to be applicable to the case of European Gold Miners.

3. I am to ask that the objects and reason for the proposals and a draft of alterations and additions to the particular section and schedule in the Act may be submitted with your reply.

Principal papers relating to Railway Jurisdiction in Mysore.

No. 1.—*Despatch from the Secretary of State for India in Council, to the Government of India, No. 206, Financial, dated London, 22nd May 1879.*

Blue Book, Mysore, 1881
No. 1, page 8.

I have had under my consideration in Council your Excellency's letter, dated the 17th of January, No. 3 (Foreign), soliciting my approval to your providing for the construction of a Railway from Bangalore to Mysore, either by permitting the Chief Commissioner to postpone re-payment of the Famine loan to the Mysore State, or, if necessary, by advancing fresh funds on the same terms.

"Yours 17th January, Foreign 3. Where can I find terms of debt of 80 Lakhs? Hitherto only 50 Lakhs mentioned on terms to be fixed hereafter"

2. Being unable to find on what terms the loan to the Mysore State which you mentioned as now amounting to 80 lakhs of rupees, had been advanced, I addressed to your Excellency on the 8th of March the telegram quoted in the margin and on the 14th, you informed me that the debt of that amount had been incurred gradually and that no terms were definitely settled, but that interest was charged at 5 per cent.

3. I have also received your Excellency's further telegram of the 25th of April earnestly pressing for sanction to your proposals, on the ground of the peculiar circumstances of the State, the reduced condition of the people, the undisputed special utility of the railroad for the development of the resources of the country, and the great political importance of showing the utmost consideration to Mysore in the matter.

4. Although in your letter you asked for permission, if necssary, to advance fresh funds for the construction of the railway, you mentioned that you understood from the Chief Commissioner that in fact, provided that the repayment of the present loan were postponed, no fresh advances by your Government would probably be necessary.

5. I do not consider that it would be proper, considering the restrictions which it has become necessary to impose on the prosecution of public works of utility in British India, that further advances should be made from your treasury for the construction of a railway in a Native State; but bearing in mind the circumstances in which Mysore is placed and having regard to the very strong recommendation made by your Excellency, I am willing to consent to the construction of the line from the surplus revenues of the State, the re-payment of the loan being temporarily deferred, provided, however, that interest at 5 per cent be regularly paid to your Government on the whole amount lent.

6. In this view, I addressed to your Excellency on the 2nd instant the following telegram:—"Mysore Railway. Prosecution of work approved on "following conditions: (1.) No further advances be made by your Government. (2.) Repayment of present loan be postponed. (3.) Interest on loan at 5 per cent be regularly paid."

No. 2.—*Letter from the Government of India, Foreign Department, to the Secretary of State for India, No. 26, Political, dated Fort William, the 3rd March 1880.*

Blue Book, Mysore, 1881,
No. 1 page 126.

3. We have already in our despatch of the 22nd May 1879, submitted to your Lordship a scheme of administration for establishing and giving effect to the principles upon which the Mysore State shall in future be governed by His Highness the Maharaja. And in a separate despatch of this day's date, we have submitted some explanations and additional information required by your Lordship upon cer-

ain particulars of that scheme. Assuming, therefore, that our proposals for the future administration of the State have received the general approval of Her Majesty's Government, we have now to lay before your Lordship, for approval, the draft of a written instrument stating the conditions under which the Maharaja will be placed in possession, and defining authoritatively the future relations of the Mysore Ruler with the Government of India.

15 In regard to railways and telegraphs in Mysore, we have reserved power to retain the working of them in our own hands, and to assume jurisdiction over railway lands as has been done in almost all the other States of India. Nevertheless, there is as yet no reason why the internal branches of telegraph lines which may hereafter be constructed should not be intrusted to the working of the State Officials. And although the Maharaja will bind himself to make over free of cost any land required for a British Railway, the transfer of plenary jurisdiction in such land is a point for future examination upon grounds of administrative convenience.

Enclosure 1 in No. 2.

Extract from the Draft Instrument of Transfer referred to in the preceding letter.

14. The Maharaja of Mysore shall grant, free of all charge such land as may be required for the construction and working of lines of telegraph in the said territories wherever the Governor General in Council may require such land, and shall do his utmost to facilitate the construction and working of such lines. All lines of telegraph in the said territories, whether constructed and maintained at the expense of the British Government, or out of the revenues of the said territories, shall form part of the British telegraph system, and shall, save in cases to be specially excepted, by agreement between the British Government and the Maharaja of Mysore, be worked by the British Telegraph Department; and all laws and rules for the time being in force in British India in respect to telegraphs shall apply to such lines of telegraph when so worked.

15. If the British Government at any time desires to construct or work, by itself or otherwise, a railway in the said territories, the Maharaja of Mysore shall grant free of all charge such land as may be required for that purpose, and shall transfer to the Governor General in Council plenary jurisdiction within such land and no duty or tax whatever shall be levied on through traffic carried by such railway which may not break bulk in the said territories.

No 3.—*Letter from Mr. W. J. Cuningham, Secretary to the Chief Commissioner of Mysore, to the Secretary to the Government of India, Foreign Department, No. C. 2, dated Calcutta, 17th December 1880.*

Blue Book, Mysore, 1881, No. 1,
page 182.

I am directed by the Chief Commissioner to acknowledge the receipt of your letter No. †872, I. P., dated the 25th October 1880, and to reply to the several points therein referred for report from the Chief Commissioner.

The terms of this Draft of the Instrument of Transfer received the general approval of the Secretary of State in Despatch No. 67, dated 12th August 1880. Blue Book, Mysore, 1881, No. 1, page 137.

†This letter, of which the Darbar have no copy, contained probably instructions to the Chief Commissioner based upon the Secretary of State's Despatch No. 67, dated 12th August 1880.

26. The Jurisdiction and Management of the Mysore State Railway may best be left in the hands of the Native Government. It is purely a local railway and would require considerable extensions in future. The Native State may be left to arrange for these, taking counsel with the Resident in regard to any loans or other financial arrangements for construction. It will be necessary, however, to obtain from the Mysore State a formal assignment of jurisdiction over the lands occupied by the Madras Railway. Such jurisdiction may conveniently be exercised by the officers appointed to administer the Bangalore Cantonment.

Jurisdiction over Railways.

No. 4.—*Letter from Mr. A. C. Lyall, Secretary to the Government of India Foreign Department, to Sir James Gordon, Chief Commissioner of Mysore, No. 92 I. P dated Fort William, 24th January 1881*

Blue Book, Mysore, 1881, No. 1, page 189.

I am directed to communicate to you the orders of the Government of India on your Secretary's letter No. C. 2, dated 17th December, in which expression is given to your opinion on certain points connected with the approaching transfer o Mysore to the Maharaja. * * * *

10. The Government of India concur in your views regarding the jurisdiction and management of the Mysore State Railway. With reference, however to your remarks regarding loans and financial arrangements for railway construction, it may be worth while to make the Maharaja's Government acquainted with the law [37 George III, Chap. 142, Sec. 28] under which loans cannot, in certain cases, be negotiated without the consent of the Secretary of State or the Governor General in Council.†

No. 5.—*Letter from Mr. W. J. Cuningham, Assistant to the Resident in Mysore, to Mr. C. Ranga Charlu, Dewan of Mysore, No.* 1665—341, *dated* 12*th October* 1881.

I am desired by the Officiating Resident to forward for the information of the Mysore Darbar copy of a letter from the Secretary to the Government of India, Foreign Department, No. 1171-I. G., dated the 20th September 1881.

2. This letter shows the extent to which the Government of India desire to continue its supervision over the Mysore State Railway for the present, and I am to say that Mr. Sandford hopes that the proposal will meet with the ready concurrence of the Government of His Highness the Maharaja and that the necessary instructions will be issued to the Railway Authorities.

3. I am further desired to observe that it is to be understood that in the event of the Mysore line becoming connected with the general system of Railways throughout India, the existing arrangements will be liable to alteration and may probably be considerably modified, in the direction of a closer control by the Imperial Government.

4. Act IV of 1879, the Railway Act, is already in force in Mysore; but it will be necessary to introduce distinct provisions declaring the sanction of the

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[† Note.—Nos. 3 and 4 were forwarded by the Government of India to the Secretary of State with their letter No. 16, dated 2nd February 1881,—(*Vide* page 181 of Mysore Blue Book 1881), No. 1, and apparently received the approval of the Secretary of State in due course. (*Vide* Secretary of State's Despatch No. 78, dated 28th July 1881, page 199, of the Mysore Blue Book, 1881).

Governor General of India in Council necessary to the opening of new portions of the line and also declaring the concurrence of the Resident necessary for altering existing rules, under Section 8 of the Act.

5. Some amendments in the Act are shortly to be proposed in the Legislative Council of the Governor General; and on their publication the Mysore Government will, I am to add, be again addressed with a view to the addition of these amendments to the Act as in force in Mysore, with any modification that local circumstances may require. The consent of the Governor General in Council will be necessary to this measure as to all alterations of existing laws.

The Madras Government has been addressed in order that the services of the Consulting Engineer to that Government may be available for the purposes described in para 5 of the enclosure.

ENCLOSURE IN **No. 5.**

Letter from Mr. C. Grant, Officiating Secretary to the Government of India in the Foreign Department, to Sir James Gordon, Resident in Mysore, No. 1171, *I. G., dated 20th September* 1881.

I am directed to acknowledge the receipt of your letter No. 419 G.-23 of the 28th May 1881, requesting to know how far, if at all, the details of the management of the Mysore State Railway are to remain under the supervision of the Government of India.

2. In reply, I am to state that it is not the wish of the Government of India to interfere in the management of the details of the railway, but a certain amount of supervision will be necessary in order that no marked departure be permitted from the broad general principles under which all the railways in India are now controlled.

3. Although the railway is at present of small dimensions and only serves local interests, still within a few years it may probably be extended into other districts of the State; a connection towards the north with the Southern Mahratta system of railways (now being commenced) must soon follow, and an outlet through the Wynaad towards Beypore will eventually be made. The Mysore Railway cannot, therefore, be looked upon as one of merely local interest, but must be considered as forming part of the net work of Imperial railways now so rapidly extending over the continent of British India. It is therefore desirable that the same amount of supervision that the Government of India deems at present necessary for the general safety of the travelling public should be extended to the Mysore Railway.†

No. 6.—*Letter from Major H. Wylie, Assistant to the Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, No.* 1813—296, *dated 9th December* 1884.

I am directed to acknowledge the receipt of your letter No. 30, dated 6th November last, requesting to be furnished with copies of any correspondence or instrument showing the assignment to the British Government by the Mysore State of the lands occupied by the Bangalore Branch of the Madras Railway

†NOTE.—The other paragraphs refer in detail to the specific points in regard to which the Government of India desire control. The jurisdiction is not referred to as requiring ever to be surrendered as a possible contingency in the future.

lying within the Territories of Mysore, in view to the Darbar issuing a Notification for the guidance of its Officers renouncing jurisdiction in the aforesaid lands.

2. In reply, I am to state that the lands in question were made over by the British Administration of Mysore to the Madras Railway Company in 1859, and that in 1878, the Government of India, in their Foreign Secretary's letter No. 828, dated 24th April, directed the Chief Commissioner to declare and record that the said lands were made over to the British Government on the conditions contained in Foreign Department, Resolution No. 2600—2601 P., dated 22nd November 1877. The Chief Commissioner passed orders accordingly and sent copies for information to the Consulting Engineer and Secretary, Public Works Department, and to the Guardian to His Highness the Maharaja. It was considered that this procedure was sufficient, as after Rendition the Darbar would be bound by acts of the British Administration of Mysore. This ruling was again confirmed by the Government of India in September 1881 in answer to a reference from this office about the same lands.

3. The Resident has now directed me to send for your information, in case you have not got it already, copy of Foreign Department Resolution of 22nd November 1877, above referred to, and I am to state that that part of it which referred to other lands subsequently required is of course superseded by the article on the subject in the Instrument of Transfer referring to lands thereatfer required for Railways by the British Government. By desire of Mr. Lyall, I also send you a copy of the Notification, dated 5th February 1883, issued by the Government of India, defining the jurisdiction in the said lands and he agrees that a Notification should be issued by the Darbar for the guidance of its Officers renouncing jurisdiction over those lands.

Enclosure 1 in **No. 6.**

No. 2600, Political, dated Fort William, 22nd November 1877.

Extract from the Proceedings of the Government of India in the Foreign Department, (Political), dated Fort William, 22nd November 1877.

Read letter to the Chief Commissioner of Mysore, No. 1229 P., dated 28th May 1877, on the subject of the arrangements in virtue of which the British Government occupies land in Mysore.

From the Secretary to the Chief Commissioner of Mysore, No. 4123—G. 47 of 21st July 1877.

From the Public Works Department No. 3197 R., dated 5th September 1877

Inasmuch as the land required for the Bangalore Branch of the Madras Railway within the State of Mysore has been made over to the Railway Company by the Mysore Administration, it is now desirable in view to the contemplated restoration of Mysore to Native Rule, to arrange the conditions on which these lands are to be held, and on which other lands that may be required by the British Government for Railway purposes in Mysore are to be given up by the Mysore State.

2. The Governor General in Council considers that these conditions should be the following, which are practically the same as those on which land has been made over by other Native States for Railway purposes :—

I. That the land required for the construction of the Railway line for Stations and for *bonâ-fide* Railway purposes, shall be given up by the Mysore State free of all cost; all necessary compensation to owners of lands, houses and gardens, &c., in the land given up shall be defrayed and borne by the Mysore State as is done by the British Government in regard to the Railway within British Territories.

II. That full jurisdiction in such lands, short of sovereignty rights, shall be ceded absolutely to the British Government.

III. That no transit or other duties on "through" goods shall be levied and that if any duties be levied on goods breaking bulk and being conveyed to and from the Railway, such duties shall be taken at the ordinary tariff in force in the Mysore State, or according to a fixed tariff to be settled hereafter.

ENCLOSURE 2 IN **No. 6.**

Letter from the Officiating Under-Secretary to the Government of India, to the Chief Commissioner of Mysore, No. 828 P., Foreign Department, Political, dated Simla, the 24th April 1878.

With reference to the correspondence ending with your letter No. 238 P., dated 20th March 1878 to this Department, on the subject of lands taken up for Railway purposes in Mysore, I am directed to request that Foreign Department Resolution No. 2600—2601 P., dated 22nd November 1877, which was forwarded to you with the letter from this office noted in the margin may be recorded in your office as containing the conditions upon which lands already made over by the Mysore State for Railway purposes to the British Government are held, and on which other lands that may be hereafter given for Railway will be made over by the Mysore State.

2602-P., dated 27th November 1877.

ENCLOSURE 3 IN **No. 6.**

Government of India, Foreign Department. Notification No. 292 J., dated 5th February 1883.

Whereas the Governor General in Council has and exercises full jurisdiction within those portions of the land forming the Bangalore Branch of the Madras Railway (including the land occupied as stations, out-buildings, and for other purposes connected with the Railway) which lie within the territories of His Highness the Maharaja of Mysore. In exercise of this jurisdiction and of the powers conferred by Sections 4 and 5 of Act XXI of 1879 (the Foreign Jurisdiction and Extradition Act, 1879) and of all other powers enabling him in this behalf, the Governor General in Council is pleased to issue the following Notification:—

1. All laws for the time being in force in the Civil and Military Station of Bangalore shall be deemed to be in force in the aforesaid land.

2. All Courts having for the time being jurisdiction within the Civil and Military Station of Bangalore shall exercise the same jurisdiction within the aforesaid land.

3. The administration of the Police within the aforesaid land, shall be vested in the Superintendent of Police for the time being for the Civil and Military Station of Bangalore, who shall exercise within the aforesaid land the same Police powers as he may exercise for the time being within the Civil and Military Station of Bangalore, in subordination to the same authorities as he may, when exercising these powers, be for the time being subordinate to, within the said Civil and Military Station.

No. 7.—*D. O. Letter from Mr. J. B. Lyall, Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Bangalore, July 2nd, 1886.*

It seems to me that your proposed Notification* will be useful and ad the paras of it seem unobjectionably worded except para 3. I have suggestel

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This Notification is printed in this compilation as No. 9, para 3 thereof being in accordance with the revised wording suggested by the Resident.

on the margin a revised wording for that para which I shall ask you to accept as the Government of India have put this matter of the transfer by their instructions somewhat specially into my hands. Until we get the contract and the final instructions of the Government of India, it would be, I think, a mistake to say as much as is said in your para 3. Please let me have the Draft Notification I now return with your reply as I have kept no copy.

No. 8.—*D. O. Letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to Mr. J. B. Lyall, Resident in Mysore, dated Bangalore, 2nd July* 1886.

Many thanks for your D. O. and I shall gladly adopt the alteration proposed in para 3 of the Draft Notification which I return herewith after retaining a copy for the Gazette tomorrow.

I hope the jurisdiction will always continue to be vested in the Officers of the Mysore State. The jurisdiction over the Madras Railway has been made over to the British Government, but no part of the Madras Railway is built on the guarantee of the Mysore Government. The case of the "Mysore State Railway" is quite different. The transaction with the Southern Mahratta Company was from the commencement understood to be one of *hypothecation* only, and Mysore will pay guaranteed interest to the Company. Under such circumstances, I beg that Mysore will be allowed to continue to exercise full jurisdiction over the Railway and not required to transfer such jurisdiction to the British Government.

No. 9.—*The Dewan's Notification No.* 117, *dated* 1*st July* 1886.

The management of the Mysore State Railway has this day been transferred to the Southern Mahratta Company (Limited).

2. The establishment hitherto employed by the State in the working of the Railway has also been transferred to the Company, with the exception of the few officers who have been given notice that their services would not be required in the future. The officers and servants of all grades who have been transferred to the Company are hereby required to place themselves under the orders of the Agent. Such of them as are on the pensionable service of the State will, notwithstanding such transfer, continue to be regarded as belonging to the State service, but they must keep alive their claims for pension from the State by paying the contributions prescribed in that behalf by the Civil Pension Code.

*3. It must be understood that the transfer makes no change in the Civil, Criminal and Police Jurisdiction heretofore exercised over the line of the State Railway by the proper officers of the Mysore State in accordance with the laws for the time being in force.

4. The Medical Staff and arrangements will continue to be as hitherto under the control of the Senior Surgeon to the Mysore Government, pending further orders.

5. All contracts with the Mysore Government that have not lapsed by failure on the part of the contractors will continue in force until the expiry of the date specified for completion, or until non-fulfilment of any of the terms of the agreement.

6. Arrangements at present obtaining for the supply of fuel by the Forest or Revenue Officers of the State will hold good, pending arrangements on the part of the Company for the future supply

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* This para is in accordance with the revised wording suggested by Resident in No. 7.

No. 10.—*Letter from Colonel C. Bowen, Secretary, Public Works Department, Mysore Government, to Major D. Robertson, Assistant to the Resident in Mysore, No. 1608—275, dated 17th April 1888.*

I am desired to acknowledge the receipt of your letter No. 1197—1 A5 dated 6th April 1888 and in reply to make the following observations :—

4. In regard to certain other matters not dealt with in my previous letters Nos. 1343—239 and 1344—240, dated 2nd April 1888, I am to request information as follows :—

* * *

8thly. The Darbar will gladly arrange for the Police force required under paras 23 to 25 of the contract. Information as to requirements is accordingly requested.

No. 11.—*Letter No. 3666—479-8 from Mr. F. E. K. Wedderburn, Assistant Resident, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Bangalore, the 2nd November 1888.*

In forwarding for the consideration of the Darbar the accompanying copy of a letter *from the Secretary to the Government of India, Public Works Department, to the Bombay Government, regarding the general policy to be pursued towards the Mysore Darbar, with regard to the Mysore State Railway, I am directed to point out that the Government of India is endeavouring as far as possible to meet the wishes of the Darbar as represented by the Public Works Department Secretary in his letter No. 1608—275, dated 17th April 1888.

*No. 732 R. C., dated the 14th July 1888.

The question of jurisdiction on the line when completed is obviously a matter which is beyond the province of the Public Works and Financial Departments, but the Officiating Resident brought the subject to the notice of the Government of India and asked for an indication of their policy. In reply, Sir Harry Prendergast has been informed that the Government of India have the fullest confidence in the ability of the Mysore Courts, but for the sake of administrative convenience, they desire that, as in other great Native States such as Hyderabad and Cashmir, so in Mysore the jurisdiction upon lines of Railway shall vest with the Imperial Government.

I am desired to say that there is nothing unusual in the arrangement, which indeed has been already adopted in Hyderabad and Cashmir, and to ask for the cession by the Darbar of full jurisdiction over the lines of railway already constructed and that may be constructed in the Mysore Territory.

A form of Notification like that of the 5th February 1883 is enclosed for the consideration of the Government of His Highness the Maharaja. If this meets with the approbation of the Darbar, it would be convenient, I am to suggest, that the arrangements regarding the Magisterial and Police work should be the same as those adopted for the branch of the Madras Railway that traverses Mysore Territory.

ENCLOSURE 1 IN **No. 11.**

Notification.

Whereas His Highness the Maharaja of Mysore has granted to the British Government full jurisdiction within the lands in his territory which are occupied

or may be hereafter occupied by the Mysore State Railway or other line of Railway including land occupied as stations, out-buildings and for other purposes connected with such railways. In exercise of this jurisdiction and of the powers conferred by Sections 4 and 5 of Act XXI of 1879 (Foreign Jurisdiction and Extradition Act, 1879) and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following Notification :—

1. All laws for the time being in force in the Civil and Military Station of Bangalore shall be deemed to be in force in the aforesaid lands.

2. All courts having for the time being jurisdiction within the Civil and Military Station of Bangalore shall exercise the same jurisdiction within the aforesaid lands.

3. The administration of the Police within the aforesaid lands shall be vested in the Superintendent of Police for the time being for the Civil and Military Station of Bangalore who shall exercise within the aforesaid lands, the same Police powers as he may exercise for the time being within the Civil and Military Station of Bangalore in subordination to the same authorities as he may, when exercising these powers, be, for the time being, subordinate to, within the said Civil and Military Station.

ENCLOSURE 2 IN **No. 11.**

Letter No. 732 R. C., from the Government of India, (Public Works Department, Railway Construction) to the Secretary to the Government of Bombay, Public Works Department, dated Simla, the 14th July 1888.

In September last the Government of Bombay drew attention to certain errors and omissions in the Mysore Railway *contract, and whilst pointing out that any direct interference by the Native State would not have been workable, asked for some indication to be given of the general policy to be pursued by the Government of Bombay in respect to any wish which the Mysore Darbar might express with regard to the working of the Railway in their territory.

Letter No. 59, P., dated 22nd September 1887.

2. I am to express regret that this question has remained so long unanswered, the delay being due to the fact that it became mixed with other complicated issues regarding the transfer of this Railway.

6. As regards the question of Police which is raised in your letter under reply, I am to say that the Mysore Darbar has agreed te arrange for the Police force required under Clauses 23 to 25 of the contract. I am accordingly to enquire what the Police requirements are which the Company considers desirable on the Mysore Railway, and what is the organization of that force which the Government of Bombay would recommend. The Government of India would be glad to learn if there is any objection to the Police for the Mysore line being provided by the Darbar on a scale to be jointly approved by the Railway Company, the Resident in Mysore and the Government of Bombay, the Company contributing its share of $\frac{7}{10}$ths, and paying it to the Darbar.

No. 12.—*D. O. letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to General Sir Harry Prendergast, Resident in Mysore, dated Mysore, 6th December 1888.*

His Highness the Maharaja has given his best consideration to the subject of your Office letter No. 3666—479-8, dated 2nd November 1888, regarding the transfer of jurisdiction over the Mysore Railway, and he asks me to send you the accompanying Memorandum on the subject, and to add that he will feel very

grateful to you for submitting it for the kind consideration and orders of His Excellency the Viceroy.

ENCLOSURE 1 IN **No. 12.**

Memorandum.

The arrangement entered into with the Southern Mahratta Company in regard to the Mysore State Railway is, in many respects, a special one for which no precedent exists in any other Native State; and it may be well to recall to mind the circumstances under which this arrangement was effected.

2. Both in the previous Demi-Official correspondence as well as in the final official letter from the Residency, the transaction was described as one between the Darbar and the Southern Mahratta Company, and in Assistant Resident's letter No. 1 Camp, dated 17th June 1885, it was described in the following terms:—

"(i). That the Darbar should enter into an agreement with the Southern Mahratta Railway Company to take over for a term of years, on certain conditions, as to interest and profits, the existing line from Mysore to Tumkur (including the Gubbi Extension) and complete it to Harihar, the Company paying the Darbar the cost (*viz.*, 60 lakhs) of the existing line;

"(ii). That the term of hypothecation should be 50 years, but that the railway should be redeemable by the Mysore State at certain periods during the currency of the contract;

"(iii). That the payments made by the Company as the value of the existing line shall be used in liquidating an equivalent amount of the State debt to the British Government; and

"(iv). That the Darbar shall maintain the annual payment of four lakhs which it now makes for the purpose of (*a*) paying off the balance of debt due to the British Government, and (*b*) paying up, or forming a sinking fund to pay off, when due, the public loan of 20 lakhs raised in the open market in 1882."

3. On the receipt of the last quoted letter, I asked the Resident for more definite information and received in reply the following telegram, dated 22nd June 1885:—

"Your demi-official yesterday. Resident has received from Simla no fur-
"ther details than those embodied in my official seventeenth instant,
"but he thinks you may safely assume that scheme there outlined is
"substantially same as Mr. Hope's scheme and that the Darbar will
"not be placed in position less favorable in any material respect than
"that scheme would give them. We have no further papers."

4. Upon receipt of the above telegram, the Darbar expressed its willingness to enter into the proposed agreement with the Southern Mahratta Company (Dewan's letter to Resident No. 16, dated 3rd July 1885).

5. In communicating the orders of the Government of India in reply to the above letter, the Resident, referring to the terms of the proposed agreement, stated

"The agreement will be concluded in the name of Government of India
"acting on behalf of the Mysore State. This arrangement will, it is
"anticipated, be more advantageous to the Darbar in that it is likely to
"procure for His Highness' Government more favorable terms."
(Para 3, Clause 4 of Assistant Resident's letter No. 1302—241, dated 18th August 1885).

6. The object of the contract being concluded in the name of the British Government being to obtain more favorable terms for the Darbar, it was not expected that this fact would involve any abandonment of local control on the operation of the Company, much less any transfer of jurisdiction over the ground occupied by the Railway

7. When before actual execution of the contract with the Company, the Darbar, on being asked to transfer the Railway management to the Company, applied for some information regarding the terms of the contract, I was informed of the orders of Government by Mr. Lyall's demi-official letter. dated 19th June 1886, as follows:—

> "The Secretary of State has already entered into a contract with the "Southern Mahratta Railway Company and funds have been raised by "the Company on the strength of the contract. The Secretary of "State concluded the contract in virtue of the authorization given by "the Darbar, and has obtained the best terms he could for the Darbar. "The time for the discussion of the minor details is past. In this "matter the Secretary of State has acted as he would in contracts on "behalf of the Government of India which never has the opportunity "of discussing minor details, nor in fact could do so effectively at a "distance. * * * *
>
> "The same powers of control and audit as are contained in the Southern "Mahratta Railway Contract are reserved to the Secretary of State "who will act on behalf of the Mysore Darbar. When received, the "contract will be sent with explanations."

8. The Darbar did not expect from the above that jurisdiction over Railway would have to be transferred to the British Government as the necessary result of the powers of control and audit being vested in the Secretary of State.

9. Before publishing the Notification of the actual transfer of the Railway to the Southern Mahratta Railway Company, I sent a draft of it to Mr. Lyall for information. Mr. Lyall suggested that para 3 of that draft might be altered as follows:—

> "It must be understood that the transfer makes no change in the Civil, "Criminal and Police jurisdiction heretofore exercised over the line of "the State Railway by the proper Officers of the Mysore State in "accordance with the laws for the time being in force."

And in suggesting the above alteration Mr. Lyall said, "I have suggested "on the margin a revised wording for that para which I shall ask you to accept "as the Government of India have put this matter of the transfer by their in- "structions somewhat specially into my hands. Until we get the contract and "the final instructions of the Government of India, it would be, I think, a mis- "take to say as much as is said in your para 3." (*Vide* D. O., dated 2nd July 1886 **No. 7**. above).

10. In adopting the alteration suggested, I replied:—"I hope the jurisdic- "tion will always continue to be vested in the Officers of the Mysore State "The jurisdiction over the Madras Railway has been made over to the British "Government, but no part of the Madras Railway is built on the guarantee of "the Mysore Government. The case of the 'Mysore State Railway' is quite "different. The transaction with the Southern Mahratta Company was from "the commencement understood to be one of hypothecation only, and Mysore "will pay guaranteed interest to the Company. Under such circumstances, I beg "that Mysore will be allowed to continue to exercise full jurisdiction over the "Railway and not be required to transfer such jurisdiction to the British "Government." (*Vide* D. O., dated 2nd July 1886 **No. 8**. above).

11. These are the more important facts to be gathered from the pas- correspondence bearing on the question of jurisdiction over the Mysore-Harti har Railway. In letter No. 3666—479-8, dated 2nd November 1888, the Resi-

dent intimates that for the sake of administrative convenience, the Government of India desire that as in Hyderabad and Cashmir, so in Mysore the jurisdiction upon lines of Railway shall vest with the Imperial Government.

12. His Highness the Maharaja is most willing at once to make the territorial assignment required to give effect to the wishes of the Government of India, but before actually making it, he is anxious that the special circumstances connected with the Mysore State Railway should be submitted for the indulgent consideration and final orders of His Excellency the Viceroy. The Mysore Railway continues to be State property hypothecated to the Southern Mahratta Railway Company for 50 years. It is redeemable by the State at the end of 50 years, and, till redemption, the State has to pay the Company interest on the total capital outlay, as well as $\frac{1}{4}$ of net Railway earnings as remuneration for their management. In these respects, it is probable that the case of the Mysore Railway is different from that in other Native States. Another salient point of difference is that nearly one-half of the entire Railway was constructed by the State from current revenue and a small loan, and this cannot be said of the Railways in other Native States. In Mysore, the Civil and Criminal law is the same as that in force in British India, and this is not the case in Hyderabad or Cashmir. Existing law in Mysore cannot be altered without the previous consent of the Government of India. When Mysore redeems the Railway, the jurisdiction will naturally vest in it, and there is no advantage apparently to be gained by a temporary change of jurisdiction. In the meantime, there will be considerable public inconvenience if jurisdiction over a line, some 300 miles long, has to be exercised by Courts in the Civil and Military Station which is situated at one end of it. The transfer of the Railway by hypothecation to the Southern Mahratta Railway Company was not received with favor by the people generally. The Darbar have lost no opportunity for giving a full and public explanation of the transaction (*vide* appended extracts from my Dasara Speeches of October 1885, October 1886 and October 1888). But the further transfer now proposed of the jurisdiction over the line will involve, in public estimation, a considerable loss of prestige to the Darbar. Jurisdiction over the Bangalore Branch of the Madras Railway, it is true, vests in the British Government, but that line is not State property, and the State pays no guaranteed interest on its capital. The fact that the management of the Mysore line will always be under British control will be found sufficient for all practical Imperial purposes. The Darbar will guarantee that their exercise of jurisdiction over the line will cause no inconvenience whatever to the British Government. Their jurisdiction up to date has caused no such inconvenience and all they ask is that the existing condition of things may be allowed to continue until it is found to produce any inconvenience. Such a continuance of existing arrangements cannot possibly be quoted as a precedent by any other Native State, as there is no Native State which, as regards its Railway, is in a position similar to that of Mysore.

13. Under the circumstances above briefly set forth, His Highness the Maharaja begs that His Excellency the Viceroy will extend to Mysore an exceptional treatment in regard to the particular Railway in question. In making this request, he is emboldened by the fact that the proposed transfer of jurisdiction does not apparently arise out of the contract between the Southern Mahratta Railway Company and the Secretary of State acting on behalf of the Mysore State, or from Section 15 of the Instrument of Transfer which does not seem to deal with Railways constructed at the expense of the State.

Enclosure 2 in No. 12.

Extract from the Dewan's Dasara Address of October 1885.

The Darbar has lately accepted a proposal made by the Government of India that the extension from Gubbi to Harihar should be executed by foreign capital. Negotiations are, it is believed, in progress between the Secretary of State for India on behalf of Mysore and the Southern Mahratta Company, where-

by the present line of 110 miles is to be hypothecated for the amount of its cost to the Company, who are to raise the additional capital required and carry out the extension. The amount which Mysore is to receive on the hypothecation of its present line is to be paid to the British Government in part liquidation of the Famine Loan. The terms under which the Company is to construct the extension and maintain, manage and work the whole system of the "Mysore State Railway" are to be similar to those of the existing contract between the Secretary of State and the Company as regards the Deccan Railways. Under this arrangement, Mysore will guarantee to the Company interest on its capital during the first five years, the State receiving the whole of the net earnings of the Railway during that period. After the first five years, the rate of guaranteed interest payable to the Company will be reduced to $3\frac{1}{2}$ per cent, and the Company will then, in addition, retain for itself $\frac{1}{4}$ of the net earnings, the remaining $\frac{3}{4}$ths being handed over to Mysore. Due provision will be made for the Government retaining in its hands a control over the accounts and expenditure of the Company and for Police arrangements on the line. The whole Railway is redeemable at the end of the 25th, 35th, or 45th year. These terms are, it will be seen, not unfavorable to Mysore. The amount to be received by the hypothecation of the open line which, as already shown, has cost about 65 lakhs, will go a great way towards liquidating the Famine loan which now amounts to about $77\frac{1}{2}$ lakhs rupees. In this way Mysore will soon be free to apply to its own advantage, the heavy payments it now makes towards the re-payment of this loan; while the liability on account of the guaranteed interest will not be serious, if the returns on the completed system are maintained at a figure which Mysore has a right to expect from its own experience in managing the small sections it has already constructed. If the cost of construction is limited to the amount provided by Mysore estimates, the difference between the $3\frac{1}{2}$ per cent guarantee and the Mysore share ($\frac{3}{4}$ths) of the three per cent earnings, will only amount to about Rs. 78,000 per annum. This charge is not to be considered as too high a price to be paid for a few years, for the advantage of securing at an early date a long length of Railway within the Province, with the option of purchasing it hereafter when the finances are in a more flourishing condition. The annual charge above referred to will cease when the Railway begins to earn $4\frac{2}{3}$ per cent on the capital; and, when it earns more than that rate, it will become a source of revenue to the State. Thus, on the whole, the proposed arrangement with the Southern Mahratta Company is one which is calculated in every way to advance the best interests of the State.

ENCLOSURE 3 IN **No. 12.**

Extract from the Dasara Address of October 1886.

But as I explained to you on previous occasions, the extension of our system so as to connect it with that of the Southern Mahratta Company with its outlet on the Western Coast, is a work which cannot be done out of the ordinary revenue within a time which can be regarded as reasonable, or without involving a considerable neglect of the claims of numerous minor works of vital importance. From this point of view, the surrender of the Railway to foreign capitalists is a measure of distinct advantage to the State. It provides within a brief period a complete Railway system which we so much need, and at the same time it leaves us free to devote our ordinary revenue resources to their more legitimate purposes.

ENCLOSURE 4 IN **No. 12.**

Extract from the Dasara Address, October 1888.

Before concluding my remarks on the subject of Finance, you will naturally expect me to give you some definite information regarding the arrangement under which the State Railway is being managed and extended by the Southern Mahratta Company. A copy of the contract finally concluded with the Company having recently been received from the British Government, I shall first explain briefly the terms of this contract, and then touch upon its bearing on the finances of the State.

The contract has been concluded by the Secretary of State for India, acting on behalf of the Maharaja of Mysore, and it is to be in force for a period of 46 years from the 30th June 1886 to 30th June 1932. Under the guarantee of the Secretary of State, the Company have raised a loan of £ 1,200,000, and the proceeds of this loan (£ 1,224,000 including a premium of 2 per cent) has been paid by the Company to the credit of the Secretary of State. The sum thus paid amounts in Indian currency to Rs. 1,63,82,801, and is intended to be devoted towards the capital cost of the Mysore State Railway, that is to say :—

Rs.	
68,60,508	towards payment to the Mysore State of the actual capital outlay on the Mysore-Gubbi line up to 30th June 1886, and
95,22,293	(or such portion of it as may be absolutely necessary) towards expenditure upon the construction and equipment by the Company of the extension from Gubbi to Harihar.

The entire Railway from Mysore to Harihar is to be worked by the Company as a separate system, distinct from their Railways in British India, and the cost of management is to be apportioned between the two systems in the proportion of their respective gross earnings. Out of the net earnings of the Mysore system, the Company are to retain for themselves a quarter share, the remaining three quarters being handed over to the Mysore State. The loan of £ 1,200,000 raised by the Company is not redeemable before 1st March 1936, but is redeemable after that date upon a year's previous notice being given. Till such redemption, interest upon it at 4 per cent per annum is payable half-yearly in London on 1st April and 1st October in each year. As the loan has been taken up upon the guarantee of the Secretary of State, acting on behalf of the Mysore State, there attaches to the latter the obligation to pay interest on it till its redemption. But you will, at the same time, note that there is no obligation whatever, either on the part of the Mysore State or the British Government, to redeem the loan at any time though it is optional to the British Government, and, through the British Government, to the Mysore State, to redeem it at any time after 1st March 1936. Under the terms of the contract, the management of the Railway will, on 1st July 1932, be surrendered by the Company to the Secretary of State acting on behalf of the Mysore State, and from the date of such surrender, the State will be entitled to work it in any way it deems proper. You will thus see that the arrangement in regard to our State Railway is divisible into two distinct parts which have no necessary connection with each other. First, the State has the obligation to pay interest on the loan and the option to redeem it in due time, and secondly, the Company has the obligation of constructing and managing the Railway for a specified term of years and the right to receive as remuneration for such service a quarter of net earnings during such term. I am sure you will agree with me in thinking that this remuneration to the Company for 46 years is not too great a price to pay for the construction of an important Railway with the aid of foreign capital.

The sum of Rs. 68,60,508, being capital cost of the Mysore-Gubbi line up to 30th June 1886, has been paid to the credit of Mysore, out of the capital raised by the Company; and the same has been applied towards the partial liquidation of the famine debt due to the British Government, with effect from 1st July 1886. Since then, two payments of 4 lakhs each have been made by the State towards this debt, which will be completely liquidated by the payment of Rs. 1,99,404 in December next, when the annual payments of 4 lakhs hitherto made on this account will determine.

It is however our intention to continue similar payments and to set them apart towards a special fund for the redemption as well of the Local Railway Debenture Loan of 20 lakhs as of the English Debenture Loan of £1,200,000.

In addition to these payments of 4 lakhs per annum, we have to meet the guaranteed interest on the last named loan. During construction, however, we are only called upon to pay interest upon capital actually spent from month to month. Even-

tually we have to pay interest on the whole loan amounting to £48,000 per annum, which according to average rates of exchange will probably be about 5¼ lakhs of rupees. When the working of the Railway is fully developed, as I hope it will be within the next few years, about 4½ lakhs per annum may be expected as ¾ths of net Railway earnings due to the State, and deducting this amount from interest payable by the State, the net annual payment to be made to the Company, under the contract, would be about 1¼ lakh per annum. Much larger net annual payments varying from 3½ to 2 lakhs will, however, be necessary in the next 5 or 6 years during the infancy of the Railway when net earings would be necessarily low, and I have only to add that the Government have made an accurate forecast of the various liabilities above explained, and expect to be able to meet them in due time.

No. 13. —*D. O. letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to General Sir Harry Prendergast, Resident in Mysore, dated Bangalore 18th December* 1888.

When sending you by His Highness' desire a Memorandum dated the 6th instant regarding the transfer of jurisdiction over the lands of the Mysore State Railway, I had no idea that such transfer was held to come under para 15 of the Instrument of Transfer. Last Friday, when I saw you, you were pleased to tell me in course of conversation that the provisions of para 15 of the Instrument of Transfer were applicable to this case. Since then, I have carefully studied the whole correspondence, and it is perfectly clear to my mind, and it is also the opinion of the highest officers of the Darbar, that para 15 of the Instrument of Transfer cannot possibly apply to the lands of a Railway such as the Mysore State Railway. In support of this opinion, I beg to submit for consideration the following observations:—

1st. This Railway from the very beginning was intended to belong to the Mysore State, and it was originally sanctioned to be built from the Surplus Revenues of the State. [*Vide* Secretary of State's Despatch No. 206, dated 22nd May 1879—Blue Book, Mysore (1881) No. 1, p. 158. **No. 1** above.]

2ndly As to the meaning of para 15 of the Instrument of Transfer, we gather some valuable information from para 15 of the letter* from the Government of India to the Secretary of State, No. 26, dated 3rd March 1880, which runs as follows:—

*Page 126 of Blue Book, Mysore (1881). No. 1. *Vide* No. 2 above.

> "In regard to Railway and Telegraphs in Mysore, we have reserved "power to retain the working of them in our own hands and "to assume jurisdiction over Railway lands as has been done "in almost all the other States of India. Nevertheless there "is as yet no reason why the internal branches of telegraph "lines which may hereafter be constructed should not be "intrusted to the working of the State Officials. And al- "though the Maharaja will bind himself to make over, free "of cost, any land required for British Railway, the trans- "fer of plenary jurisdiction in such land is a point for future "examination upon grounds of administrative convenience."

The first sentence of the above extract lays down the general rule as regards both Railways and Telegraphs, and should be construed in a way consistent with the express terms of paras 14 and 15 of the Instrument of Transfer. The second sentence of the above extract qualifies the general rule as regards telegraphs, and the third and the last sentence explains the meaning of the rule as applied to Railways. It is clear from the last sentence that the obligation to grant land free of cost and to surrender jurisdiction over such land can only arise in respect of a British Railway. The letter further contemplates that, even in the case of such a Railway (*i. e.*, a British Railway), for which the State may grant land free of cost, the jurisdiction may be left to remain with the Darbar, if consistent with administrative convenience. It is thus quite clear that the transfer of jurisdiction in the case of a Railway other than a British Railway does not appear to have ever been within the contemplation of the Government of India.

3rdly. The above opinion receives confirmation from the letter* to the Government of India, from Mr. Cuningham, Secretary to the late Chief Commissioner, No. C. 2., dated 17th December 1880, para 26 of which runs as follows:—

*Page 182 of Blue Book, Mysore (1881) No. 1. *Vide* No. 3 above.

"The jurisdiction and management of the Mysore State Railway may best "be left in the hands of the Native Government. It is purely a local "Railway, and would require considerable extensions in the future "The Native State may be left to arrange for these, taking counsel "with the Resident in regard to any loans or other financial ar- "rangements for construction. It will be necessary, however, to ob- "tain from the Mysore State a formal assignment of jurisdiction over "the lands occupied by the Madras Railway. Such jurisdiction may "conveniently be exercised by the officers appointed to administer the "Bangalore Cantonment."

In reply to the above recommendation, the Government of India wrote as follows:—(Para 10 of Foreign Secretary's letter *to Chief Commissioner, No. 92 I. P., dated 24th January 1881).

* Page 189 of Blue Book, Mysore, (1881) No. 1. *Vide* No. 4 above.

"The Government of India concur in your views regarding the jurisdiction "and management of the Mysore State Railway. With reference, how- "ever, to your remarks regarding loans and financial arrangements for "Railway construction, it may be worth while to make the Maharaja's "Government acquainted with the law (37 George III, Chapter 142, Section "28) under which loans cannot, in certain cases, be negotiated without "the consent of the Secretary of State or the Governor General in Council." There is thus an express order of the Government of India to the effect that the jurisdiction over the Mysore State Railway lands is to remain with Mysore.

4thly. Since these orders were passed, nothing has occurred to change the condition of things, for, when the question of the extent of supervision to be exercised by the Government of India over the Mysore State Railway came under discussion after the Rendition, the Government of India anticipated a connection with the Southern Mahratta Company's system, and possibly also, one through the Wynaad towards Beypore, and having regard to such future extensions, the Government observed* that the Mysore Railway cannot be "looked upon "as one of merely local interest, but must be considered as forming "part of the net work of Imperial Railways now so rapidly ex- "tending over the Continent of British India. It is therefore de- "sirable that the same amount of supervision that the Government of "India deems at present necessary for the general safety of the travelling "public should be extended to the Mysore Railway." The rules which the Government of India then laid down were accordingly confined to the object of securing the safety of passengers; and with the prospect of a connection with the Southern Mahratta Company at Harihar, which was then foreseen, the Government did not even refer to the question of jurisdiction. Indeed, in Assistant Resident's letter No. †1665—341, dated 12th October 1881, communicating the above orders of Government, it was stated that "it is to be understood that in the event of "the Mysore "line becoming connected with the general system of Railways throughout "India, the existing arrangements will be liable to alteration and may "probably be considerably modified in the direction of a closer control by "the Imperial Government." Thus, with the expansion of our Railway, we were led to expect a closer control by the Imperial Government, but never any surrender of jurisdiction over Railway lands.

* Foreign Secretary's letter to the Mysore Resident, No. 1171 I. G., dated Simla, 20th September 1881, para 3, *vide* Enclosure in No. 5 above.

†*Vide* No. 5.

5thly. As already explained in my previous Memorandum, the transaction with the Southern Mahratta Railway Company in regard to the Mysore Railway was, from the beginning, intended to be one by way of hypothecation. Under the contract which has actually been concluded with the Company, it is not even one of hypothecation, but is merely one of a simple agency, the Company being the Agents of the State for a fixed number of years to construct and manage the State Railway. The Company has borrowed the capital on a British Debenture Loan which the State is bound to repay and for which the State pays interest till repayment. The Company has the right to construct and manage the Railway for a period of 46 years ending with 30th June 1932, when the possession of the Railway will revert to the State. The British Debenture Loan is redeemable by the State at any time after 1st March 1936, and till such redemption, the State is liable to pay interest upon it at 4 per cent. From these terms of the contract between the Southern Mahratta Railway Company and the British Government acting on behalf of Mysore, it is clear that the Mysore State Railway continues to be the property of the Mysore State, that the incidents attaching to a British Railway cannot attach to it, and that the Company are merely the Agents of the State (through the British Government), to construct and manage the line.

It only remains for me to add that the Darbar sincerely hope that the foregoing facts will convince you that Section 15 of the Instrument of Transfer cannot apply to the Mysore State Railway. His Highness is most anxious that the jurisdiction over the lands of this Railway should continue to vest in him in accordance with the original intention, the express orders of the British Government of January 1881, and their subsequent intention as inferrible from their letter of September 1881 and the correspondence relating to the negotiations with, and final transfer to, the Southern Mahratta Railway Company.

No. 14.—*D. O. Letter from General Sir Harry Prendergast, Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Bangalore, the* 18*th December* 1888.

I have received your letter of the 6th December, requesting me to forward for the consideration of His Excellency the Viceroy, a Memorandum on the question of the transfer to the Government of India of jurisdiction over the Mysore Railways, but before doing so, I think it advisable to address you again, in order that there may be no possibility of misconception regarding the matter.

The question has not arisen out of the transfer of the Mysore State Railway to the Southern Mahratta Company, and is not immediately concerned with the terms of that contract, its solution in no way depends on the manner in which funds were obtained for the construction of the Railway, as the request for cession of jurisdiction would certainly have been made if the working of the line had still remained in the hands of the Mysore Government.

There can be no doubt that under the 15th Article of the Instrument of Transfer, the Government of India can claim plenary jurisdiction. It is the policy of the Government of India now to require cession of jurisdiction upon lines of railway in Native States, which are not purely local. In pursuance of this policy, the Governor General in Council has recently obtained jurisdiction in the States of Hyderabad and Cashmir by the free will of the Rulers, and now asks, as a favor, for jurisdiction in Mysore, not because His Excellency is sceptical about the ability of the Mysore Courts, but simply for the sake of administrative convenience. I may mention that the Nizam's Railway like the Mysore line was at first constructed solely from the resources of the Native State.

In the Draft Notification that accompanied my letter to you of the 2nd November, no claim is made to the jurisdiction, and I trust that you will agree with me in the opinion that no loss of prestige is involved in a voluntary cession in the interests of Imperial Administration, a cession already granted by the other great Native States and one that might be gracefully offered by the Government of His Highness the Maharaja of Mysore and would be gratefully accepted by the Government of India.

No. 15—*D. O. letter from Mr. E. G. Colvin, Assistant Resident, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Bangalore, the 9th January 1889.*

Sir Harry Prendergast had just written the reply, which I enclose, to your letter of the 6th December, forwarding a Memorandum on the subject of the transfer of jurisdiction over the lands of the Mysore State Railway, when he received your second letter of the 18th ultimo. He now desires me, in acknowledging this letter, to add by way of appendix to his own, the following remarks on the points to which your second commnication draws attention. His views on these points are perhaps indicated with sufficient clearness in the enclosed * letter, and they are moreover, to his own knowledge, in accordance generally with those which are held by the Government of India, but without admitting that the determination of the matter rests entirely on the arguments now brought forward, he thinks it advisable to enter into each point in somewhat greater detail than he has hitherto done.

In your letter now under reply, you state in the first place that the Mysore State Railway was from the very beginning intended to belong to the Mysore State. You then give certain reasons which lead you to the opinion that Article 15 of the Instrument of Transfer was not framed to apply to Railways belonging to the State ; and hence you argue that that Article is inapplicable to any question concerning the jurisdiction on Railways other than those constructed by the British Government. Without wishing to controvert the first position in regard to the intended ownership of the Mysore State Railway, I am desired by Sir Harry Prendergast to say that he must confess that he remains unconvinced by the arguments you have used in regard to the Instrument of Transfer. The passage you have quoted from the letter from the Government of India to the Secretary of State, No. 26, dated 3rd March 1880, in which it is stated that power has been reserved to " assume jurisdiction over railway " lands, as has been done in almost all the other States of India", only confirms the Resident's views in this matter. He cannot entertain the idea that, in so important a document, the absence of any qualification to the term " Railway lands" was an oversight, or that the last clause of the paragraph, which really deals with a different subject, can be taken to limit the natural interpretation of the words in the first sentence.

It is true that as a result of the correspondence of 1880-81, to which you have alluded in your 3rd head, the jurisdiction on the Mysore State Railway was left in the hands of the Native Government, but the very fact that the question of assuming jurisdiction was discussed presupposes the right of the Government of India to assume it, if so advised. The grounds on which the right was not then claimed were that the line was a purely local one and only served local interests ; but in 1881 the possibility of extension was foreseen, and as a corollary of this, the prospective necessity of claiming the right of jurisdiction. Sir Harry Prendergast is not convinced that nothing has " occurred to change the condition of things" since the orders of 1881 were passed. On the contrary, the possibility then foreseen has become a fact. The extensions which were anticipated are to a large extent realized and the present correspondence is merely a result of the development of the line, and its connection with the Imperial railway system. The letter referred to in your fourth head (No. 1171 I. G., dated 20th September 1881 from Foreign Dept) does not appear to Sir Harry Prendergast to affect the question of jurisdiction. In this letter the subject is passed by, but it is not therefore to be supposed that the silence of the Government of India implied any relinquishment of the position which they maintain in Native States in regard to this important matter.

With regard to the 5th head of your letter under reply, Sir Harry Prendergast trusts that his letter of the 18th ultimo will serve to convince His Highness that the request which has now been made is quite independent of the transactions between the Mysore State and the Southern Mahratta Company. On this point he does not require me to add any further remarks. He desires me, however, to point out that from the initial clauses of the Indenture made on the 31st August 1887 between the Secretary of State and the Southern Mahratta Railway Company, it appears that the British Government is constructing and working through the

* Printed as No. 14. above.

Southern Mahratta Railway Company, all the Railways in Mysore except the Bangalore Branch of the Madras Railway and that the lands necessary for this purpose have been granted free of charge by the Maharaja of Mysore in accordance with the 15th Article of the Instrument of Transfer. Under these circumstances it seems to the Resident to follow that His Highness is bound, if so required, to transfer to the Governor General in Council plenary jurisdiction within such lands.

Sir Harry Prendergast has thought it the best course, both in the interests of the Mysore Darbar and of the Government, to state his own view as above in regard to the particular points raised in your letter, but he does not feel assured that they cover the whole ground in debate. He would point out that, whatever construction may be put upon terms or words, the salient feature in the policy of the Government of India towards the Mysore State Railway has been its desire to make "no marked departure from the broad general principles under which all the railways in India are now controlled." It has never been the intention of the Government to make any exception in the case of the Mysore Railway, and it may safely be inferred that the Instrument of Transfer was not intended to contain any provisions contradictory to the professed policy. One of the most familiar broad principles which the Government follows is to reserve to itself the power to assume jurisdiction on the railways in Native States when their connection with other lines or their union with the network of imperial railways in India renders this course desirable on grounds of administrative convenience.

It is only on these grounds that the request has been made in the present instance; it is not by any means an unusual request: in fact the concession has already either been asked for or has been spontaneously granted by the Nizam of Hyderabad and other leading princes of India. In fact, the Gaekwar of Baroda has already volunteered to cede jurisdiction on the line of Railway by which it is proposed to connect the Rajputana and Kathiawar railway systems, while jurisdiction on the main line running through his territory has through his courtesy been for a long time in the hands of the British Government.

Sir Harry Prendergast trusts that His Highness the Maharaja will understand and sympathise with his motive in thus clearly placing before you his opinion on the whole subject. He has no wish to give public expression thereto, but feels that it may be for the interest of the State that these views should be known by the Mysore Government. As he has stated in the letter which I enclose, the question of right has been purposely avoided in the official correspondence, as he is confident that it will be much to the credit of the State to yield the concession of their own accord, and he trusts that His Highness will agree with him that in view of the well understood policy of the Government of India, the step which His Highness is now asked to take would be an additional proof of the good will and friendly feeling of the Mysore Darbar, and at the same time would in itself be very acceptable to the British Government.

No. 16.—*D. O. letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to Col. Sir Oliver St. John, Resident in Mysore, dated Madras, 2nd February* 1889.

Regarding the question of the proposed transfer of jurisdiction over the lands of the Mysore State Railway referred to in Sir Harry Prendergast's D. O. letter dated 18th December 1888 and Mr. Colvin's D. O. letter, dated 9th January 1889, His Highness the Maharaja asks me to appeal to your great experience in the Political Department, in the earnest hope that you will be so good as to effect some satisfactory solution.

2. The views of the Darbar on the subject are expressed at some length in my D. O. letter, dated 18th December last and in the Memorandum forwarded with my D. O. letter, dated 6th idem. His Highness does not wish to add to them, in any way, beyond making the following brief observations on two or three points in Mr. Colvin's letter above quoted:—

(*a*) In para† 15 of letter No. 26, dated 3rd March 1880 from the Government of India to, the Secretary of State, the last sentence runs as follows:—"And although the Maha-raja will bind himself to make over, free of cost, any land required for a

†*Vide* No. 2 above.

"British Railway, the transfer of plenary jurisdiction in such land is a point "for future examination upon grounds of administrative convenience."

Sir Harry Prendergast thinks that this sentence refers to a different subject, but His Highness is unable to see how it can be regarded otherwise than as an explanation of the scope and intended effect of para 15 of the Instrument of Transfer. Moreover it was this explanation which was before the Secretary of State when he accorded the sanction of Her Majesty's Government to the Instrument of Transfer as a whole.

(*b*) Para 10 of Foreign Seeretary's letter No. 92 I. P., dated 24th January 1881, to the late Chief Commissioner, intimates the concurrence of the Government of India in Sir James Gordon's views regarding the jurisdiction and managament of the Mysore State Railway. This concurrence was not based (as stated in Mr. Colvin's letter) on the grounds that "the line was a purely local line and served only "local interests." For Sir James Gordon, when reporting that it was a purely local Railway, added also that it *would require considerable extensions in the future.* It may be presumed that the orders of Government were based upon this report which made specific mention of considerable future extensions. The extensions which are now being accomplished cannot therefore be said to so alter the case as to give rise now to a transfer of jurisdiction. And this view receives some support from the omission of this important question, when the Government had to pass orders regarding departmental control over the Mysore Railway. (*Vide* Government of India *letter No. 92, dated 24th January 1881, para 10.)

* No. 4 above.

(*c*) Mr. Colvin's letter, referring to the Indenture dated 31st August 1887, says "It appears that the British Government is constructing and "working through the Southern Mahratta Railway all the Railways "in Mysore except the Bangalore Branch of the Madras Railway, "and that the lands necessary for this purpose have been granted free "of charge by the Maharaja of Mysore in accordance with the 15th "Article of the Instrument of Transfer." I have not been able to find any passage in the Indenture in question which can be construed as having such a meaning. If the reference be to the 2nd clause of the preamble of the said Indenture, all I have to say is that the arrangement recited therein is the one of transfer of the Railway to the Southern Mahratta Company on 1st July 1886. The existing Railway from Mysore to Gubbi was on that date actually transferred and the transfer of land required for the extension to Harihar could be said to have accompanied the transfer of the existing railway by necessary implication. The British Government regarded this transfer as one made for a specified consideration and not as a grant of land free of cost under Section 15 of the Instrument of Transfer.

And (*d*) In this connection, I may perhaps be allowed to say that the Draft Notification which accompanied your office letter No. 3666—479-8, dated 2nd November 1888, contemplates not merely the grant of jurisdiction over lands of the Mysore State Railway from Mysore to Harihar, but over all lands which may hereafter be occupied by the Mysore State Railway or other line of Railway. His Highness feels sure that you will agree with him in the opinion that this is a very large question, much larger probably than Sir Harry Prendergast himself intended, but he is inclined to believe that there is a mistake somewhere, or that the Darbar are not in possession of the entire correspondence on the subject.

3. Having made the foregoing observations on the more salient points of Mr. Colvin's letter, His Highness asks me to add that he has no desire whatever to discuss the question as one involving a consideration of rights and obligations.

His Highness is fully aware of the desire of the Government of India to make "no marked departure from the broad general principles under which all the Railways in India are now controlled." His Highness has, however, always been

under the impression that the uniformity thus insisted upon had reference to management and control so as to ensure the safety of passengers and not to jurisdiction. His Highness has reason to believe that as regards jurisdiction over Railway lands in Native States, the practice has varied according to the circumstances of each individual case, and as the Mysore State Railway (more than the Railways in any other Native States) is entitled to special indulgent consideration at the hands of the British Government, His Highness is anxious that a full statement of the whole of the facts should be submitted for the consideration and final orders of His Excellency the Viceroy.

His Highness will accordingly feel much obliged to you for such support as your varied experience and your knowledge of the conditions of other Native States may enable you to give to his representation in this matter, and for any satisfactory settlement which you may be able to effect.

No. 17.—*Letter from Mr. E Colvin, Assistant to the Resident, to Colonel C. Bowen, Secretary to the Government of Mysore, Public Works Department and Railway, No.* 791—1. *A., dated Bangalore, the 7th March* 1889.

I am directed to acknowledge the receipt of your letters marginally noted and to communicate, by the Resident's desire, the following remarks in regard to the questions therein raised:—

No. 1344—240, dated 2nd April 1888.
„ 1343—239, dated 2nd April 1888.
„ 1608—275, dated 17th April 1888.

6. In regard to Police, the Government of India desire for the present that the existing provincial arrangements may remain in force.

7. A further communication will be addressed to the Darbar on this point.

No. 18.—*D. O. letter from Mr. K. Shashádri Iyer, Dewan of Mysore, to Colonel Sir Oliver St. John, Resident in Mysore, dated Ootacamund, 20th May* 1889.

In continuation of my D. O. letter, dated 2nd February last, on the question of Railway jurisdiction in Mysore, His Highness the Maharaja asks me to inform you that he is most anxious to do everything in his power to promote administrative convenience. With that object, he is prepared to form a separate but suitable Railway Police and to place the same under the immediate control of a qualified European officer who will be invested with the powers of a 1st Class Magistrate and will be able to take cognizance of all offences committed within the limits of the Mysore State Railway. The officer selected could be invested with the powers of a Justice of the Peace by the British Government, so as to prevent the possibility of any inconvenience whatsoever, owing to jurisdiction on Railway lands being left with the Darbar. We can constiture, if necessary, the whole of the Railway lands into a separate District, making the European Officer selected the Magistrate of such a District. Perhaps it would be more convenient if we placed one section of the Railway—say from Harihar to Tiptur—in the Kadur District which has a European Deputy Commissioner and District Magistrate, and the remainder (from Tiptur to Bangalore and Bangalore to Mysore) as a separate District under a special European District Magistrate at Bangalore. The Special Railway Magistrate would be under the two District Magistrates above named as regards the sections of the Railway under their respective jurisdiction. In some such way, the Darbar can promote administrative convenience to the highest degree possible and the arrangement proposed would be far more convenient to the Railway and to the public than the exercise of jurisdiction on a Railway line of 300 miles by any authority outside the Province, or even by an authority stationed at any *one point* within the Province.

His Highness asks me to add that he will be quite ready to do whatever may be necessary to give full effect to such a scheme so as to make the Darbar's

exercise of jurisdiction on Railway lands as efficient and satisfactory as if the same were in the hands of British Officers.

British Indian criminal and other laws including the Railway Act have been in force in Mysore for many years and the Darbar are ready to introduce any additional laws which may be considered necessary for obviating administrative inconvenience from any point of view.

In the Madras Presidency, I understand there is only a Railway Police under a special officer, but no Special Magistrate to take cognizance of offences on the Railway. In Mysore, we are not only prepared to adopt a similar arrangement as regards the Railway Police, but will also empower the Special Police Officer to be appointed, as a Police Magistrate, or if considered preferable, we may have such an officer as an independent District Magistrate, or may place him in subordination to two European District Magistrates. In fact, the Darbar will gladly adopt any measures which, in the opinion of the Government of India, are calculated to ensure administrative convenience.

No. 19.—*D. O. letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to Col. Sir Oliver St. John, Resident in Mysore, dated Bangalore, 11th September* 1889.

Owing to complaints of inconvenience from local officers, I have, as a temporary measure, made certain arrangements regarding Police and Magisterial work on the State Railway line, and I beg to enclose for your information the following papers on the subject:—

1. Extract from my Demi-official letter to Mr. Meiklejohn, District Magistrate of Kadur, dated 13th August 1889.
2. Notification under Sections 7 and 30 of the Criminal Procedure Code, dated 11th September 1889.
3. Order deputing Mr. Clerk, 1st Class Magistrate for the disposal of Magisterial cases, dated 11th September 1889.

These arrangements are avowedly temporary and liable to alteration when the question of Railway jurisdiction is finally decided, but I believe they will give satisfaction for the time being.

ENCLOSURE 1 IN No. 19.

Extract of a Demi-official letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to Mr. Meiklejohn, District Magistrate of Kadur, dated 13th August 1889.

* * * * *

As a tentative and temporary arrangement, I propose as follows:—

1st. Mr. Haudin to be appointed as Acting Police Assistant Commissioner and have immediate charge of the Police on the Railway from Mysore to Harihar. Mr. Ricketts will arrange details.

2ndly. Mr. F. B. Clerk, Assistant Commissioner and 1st Class Magistrate (to be appointed also Justice of the Peace), to exercise Magisterial jurisdiction over the Railway lands. He should try all offences at the various stations. He would probably get a free pass, and should never on any account require witnesses and parties to leave the Railway line.

3rdly. The Police and Mr. Clerk as 1st Class Magistrate will be under the various Deputy Commissioners as regards Police and Magisterial work in their respective Districts. This may be so as regards Mysore, Bangalore, and part of the Tumkur Districts. But as regards remainder of the Railway line, it seems to me to be highly desirable to put it all into the Kadur District. I would put the whole Railway line from Harihar up to and inclusive of Tiptur Railway Station, into your District. I can, if necessary, give you another Assistant for ordinary work and will also attach some allowance to you so as to enable you to maintain an extra carriage, &c., and to enable you to pay frequent and rapid visits to Kadur and thence travel by Railway towards Harihar on one side and to Tiptur on the

other. There may be cases of importance which you should take into your own hands, rather than let Mr. Clerk try them, but what I most look forward to is the general efficiency of our Railway jurisdiction in that part of the line where it will be most open to critisim and comparison with Bombay arrangements.

ENCLOSURE 2 IN **No. 19.**

Dewan's Notification No. 172, *dated Bangalore,* 11*th September* 1889.

Under Section 7 of the Code of Criminal Procedure, the Government of Mysore hereby direct that the lands occupied by the Mysore State Railway from the North Distance signal of the Harihar Railway Station to, and inclusive of, the Tiptur Railway Station (including land occupied as stations, out-buildings and for other purposes connected with the said Mysore State Railway) be added to the District of Kadur, and to the Sessions Division of Shimoga.

Under Section 30 of the Code of Criminal Procedure, the Government of Mysore hereby invest Mr. G. F. Meiklejohn, District Magistrate of Kadur, with power to try as a Magistrate all offences not punishable with death, committed within the limits of the aforesaid territory.

ENCLOSURE 3 IN **No. 19.**

Proceedings of the Government of His Highness the Maharaja of Mysore, No. 4758-68—*Cir.* 120, *dated* 11*th September* 1889.

ORDER.—Mr. G. F. Meiklejohn, District Magistrate of Kadur, will be requested to pay frequent visits to all Railway Stations within his jurisdiction and satisfy himself of the thorough and complete efficiency of the Railway Police and Magistracy.

2. Assistant Commissioner and 1st Class Magistrate Mr. F. B. Clerk is deputed for the trial and disposal of criminal cases occurring on the State Railway between Harihar and Mysore.

3. As regards Magisterial work within any District through which the Railway passes, Mr. Clerk will be subordinate to the District Magistrate of that District and shall submit to him all prescribed returns and reports.

4. Mr. Clerk will try all offences occurring on, or in respect of, the Railway, at the Railway Station which is most convenient to the parties and witnesses concerned.

5. Mr. Clerk's deputation is not intended to withdraw jurisdiction vested in other Magistrates, provided that the trials are held at Railway Stations most convenient to the parties and witnesses.

6. Mr. Clerk will be provided with a ministerial establishment as per appended scale :—

			On Rs. per mensem
1	Head Munshi	...	50 do
1	Deputy do	...	35 do
1	Accountant	...	25 do
1	Dafadar	...	8 do
2	Peons at 7 each	...	14 do
1	Peon	...	6 do
1	Lascar	...	7 do
1	Mashalchi	...	5 do
		Total.....	150 do

No. 20.—*Note of the conclusions arrived at a Conference held at the Residency, Bangalore, on* 3*rd November* 1889, *between Sir C. A. Elliott, Colonel Sir Oliver St. John, Resident, and the Dewan of Mysore, K. Sheshadri Iyer, Esq., C. S. I.*

1. The subject discussed was the future programme to be followed by the Mysore State in respect of the construction and management of Railways.

2. The Dewan stated, with the Resident's concurrence, that the existing available balance, after setting aside a cash balance about 15 lakhs which was required for the working of the Government, might be estimated at 60 lakhs with an annual surplus of about 10 lakhs.

3. There is also a sum of 15 lakhs available from the loan raised by the Southern Mahratta Railway Company which sum must be spent through the Agency of that Company.

4. The Dewan expressed the wish of the State as being that the Nanjangud extension (estimated at about $7\frac{1}{2}$ lakhs) should be constructed out of this balance by the Southern Mahratta Railway Company, and that considerable improvements should be effected to the Mysore and Bangalore Stations. Any sum remaining unspent after this outlay he would wish cancelled, the State undertaking to supply any further additions required to the open line capital, from its own revenues from time to time.

5. Sir Oliver St. John concurring in these views, Sir C. Elliott stated that if the sanction of the Government of India was sufficient, and it was not necessary to refer to the Secretary of State, he would undertake that that sanction should be given so that the Nanjangud extension might be put in hand at once. As to the two Station improvements, estimates should be sent up at an early date. He would examine further into the question whether it was possible to cancel the unspent balance, if any, of the £ 1,200,000 loan, and to meet demands for open line improvements from the annual revenues of the State.

6. The Dewan said that the wish of the State is that other extensions carried out with State funds should be constructed by the State Railway Department and not through the Company but that when constructed the working should be leased to the Company. They would have to borrow Engineers for construction purposes from the Government of India or from elsewhere.

7. The order in which it was decided to place the projects in respect of importance is as follows:—

(1) Bangalore-Hindupur, 54 miles in Mysore territory, 8 miles in British Territory—provided that the British Government undertake that whenever financial considerations permit they will link this line on to Dharmavaram. The line would act as a local feeder and a very useful famine line, even when only run to Hindupur and would ultimately be a portion of a valuable through line. Sir C. Elliott believed that the Government of India would be willing to give this undertaking and to find the capital required for the 8 miles in British territory, the net earnings being divided rateably between the Mysore State and the British Government according to capital expended.

It was further agreed that a revision of the survey in the difficult part should be set in hand at once, and construction commenced as soon as the necessary sanction should be received.

(2) The next line in importance is the extension from Nanjangud to Gudulur, 54 miles, provided the British Government agrees to construct the last 14 miles, which are in British territory. This line has not been surveyed and it was agreed that a survey should be undertaken at once and the Resident should communicate with the Madras Government as to their views on the importance of the line.

(3) The feeder from Birur to Shimoga, 37 miles, the terminus being probably on the right bank of the Tunga river, *i. e.*, the Railway not being carried into Shimoga itself unless the existing road bridge is found capable of carrying the line. This too requires to be surveyed.

8. To sum up, the following is the Mysore Railway programme for the ming season, provided sufficient staff can be got together:—

(1) to revise the ghat portion of the Hindupur survey.
(2) to survey the line from Nanjangud to Gudulur.

(3) to survey the line from Birur to Shimoga.
(4) to commence construction of the Hindupur line as soon as sanction is received.

9. The Resident to address the Government of Madras in order to obtain its views on the importance of the Gudulur extension, and to address the Government of India with a view to the settlement with the Southern Mahratta Railway Company of terms for the working lease of these lines when constructed: also with the view of borrowing staff for surveys and construction.

10. The Dewan referred to the question of jurisdiction, but was told by Sir C. Elliott that, as far as he knew, the Government of India accepted the Maharaja's jurisdiction and did not press for any cession of police, civil, or criminal jurisdiction to itself.

11. The Dewan further referred with dissatisfaction to the position of the State in its relations with the Southern Mahratta Railway Company as having no control over establishments, and receiving information in the form of Resolutions of the Government of Bombay with which it had no relation. Sir C. Elliott expressed the desire of the Government of India that matters should be arranged so as to meet the susceptibilities of the Mysore State in every possible way, but as the contract with the Southern Mahratta Railway Company had been effected he did not see how any change could with advantage be made in this respect. It would be wasteful to employ a special Consulting Engineer merely to inspect and carry on the business of the Mysore lines and the Consulting Engineer at Bombay who had charge of the Southern Mahratta Railway could do the work more efficiently and cheaply than any other official. If, however, the Dewan would represent through the Resident, any proposals he had to make for remedying what he found objectionable, they would be considered with careful attention.

No. 21.—*D. O. letter from Colonel Sir Oliver St. John, Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Camp Virajendrapet, 22nd January 1890.*

The Government of India has acknowledged the receipt of my letter conveying the result of the proceedings of our Railway Conference in November last.

The orders of the Government of India regarding the several projects will be communicated hereafter. In the meantime His Excellency the Viceroy desires me to convey to His Highness the Maharaja his cordial appreciation of the interest displayed by His Highness in the development of the resources of the State.

No. 22.—*D. O. letter from Colonel Sir Oliver St. John, Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated (received 2nd April 1891).*

I much regret to have to send the official going to you to-day about the railway administration. As you know I have done every thing in my power to keep it for you. The Foreign Office was not, I believe, unwilling to make an exception in favor of Mysore; but the Legislative Department has insisted on the universal cession of jurisdiction to the Imperial Government.

I would strongly recommend you now to consider the discussion as closed and to make no further attempt at argument, which would, I can assure you, be useless. You have done all that you could do for your Government.

No. 23.—*Letter from Colonel Sir Oliver St. John, Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, No.* 1012—479-8, *dated Bangalore, 2nd April 1891.*

On the 20th May 1889 you wrote to me demi-officially on the subject of Railway jurisdiction in Mysore detailing the arrangements His Highness pro-

posed to make in order to make the Darbar's exercise of Railway jurisdiction as efficient and satisfactory as possible. These arrangements have been efficiently and loyally carried out, and no cause of complaint has arisen. But, since that letter was written, the subject has been very carefully considered by the Government of India, and it has, I regret to have to inform you, felt itself compelled to come to a decision adverse to the wishes of the Darbar. It has been finally resolved that it is absolutely necessary as a question of Imperial policy, that the Government of India should exercise control over any railway in a Native State which forms part of a line of continuous communication and in order to exercise that control must have jurisdiction over it. Some of the main reasons for this decision are :—

(*a*). The delay in the administration of justice which would occur in cases where the Native States had to apply for Extradition from British territory disappears when the jurisdiction is in the hands of the Government of India.

(*b*). Were Jurisdiction not ceded, it must be divided ; for the Indian Railway Act of 1879 (See Section 1) extends to subjects of Her Majesty on all Railways in Native States, independent of whether jurisdiction over the Railway has or has not been ceded by the Native State concerned.

(*c*). In no case could the courts of the Native State try European British subjects, which term includes most Eurasians (*vide* Act X of 1882, Section 4, Clause (*u*)) and, if jurisdiction were not ceded, it would happen that European British subjects and others when jointly charged with the same offence, would be tried apart by different Courts and under different laws.

(*d*). To lines over which jurisdiction is ceded, the Indian Railway Act is applied, and uniformity of procedure is thus obtained. Were jurisdiction not ceded, each State would have to try to frame an adapted Railway Act, whereby uniformity of procedure on the different lines would be considerably impaired.

2. There is nothing in the slightest degree derogatory to the dignity of the Mysore State in this decision. The United States of America are, you are no doubt aware, absolutely sovereign each within its own limits, each making its own laws, electing its own Governor, its own representative assembly, and its own judicial officers, yet as a matter of administrative convenience, every one of the United States has found it necessary in the public interest, to cede jurisdiction over its railways to the Federal Government of the Union. Canada, the several States of which are similarly independent, has recently had to follow the example of the United States.

The Nizam's Government, you are no doubt aware, has already ceded full jurisdiction over the Hyderabad lines. Under these circumstances, His Highness' Government will, I trust, see the necessity of ceding jurisdiction over the lines now worked by the Southern Mahratta Railway. I shall be obliged to you for an early reply to this letter ; and shall be glad to discuss with you at any time the details of transfer and the arrangements I propose for the future.

No. 24.—*D. O. letter from Captain C. W. Ravenshaw, Assistant to the Resident in Mysore, to Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Bangalore, 7th August 1891.*

The Resident and myself called on His Highness the Maharaja yesterday and during our visit Sir Harry spoke to His Highness on the subject of cession of jurisdiction over the Mysore Railway, and explained the reasons why the Government of India pressed the point.

His Highness was much in favor of a last appeal to the Government of India and seemed to think that if the matter was again submitted in full detail, the Government of India might reconsider the views they had expressed.

Sir Harry pointed out to His Highness that in his opinion every possible argument had been laid before and fully considered by the Government of India, but in deference to His Highness' wishes he was prepared to resubmit these representations, provided that he would finally express his willingness to cede the jurisdiction, should the Government of India still be of opinion that Railway jurisdiction throughout India must belong to the Paramount Power.

I am desired to communicate the result of this conversation with His Highness, and to ask you to expedite the matter, to enable the Resident to submit an early reply to the Government of India.

No. 25.—*D. O. Letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, to General Sir Harry Prendergast, Resident in Mysore, dated Bangalore, 23rd August 1891.*

The draft letter regarding Railway jurisdiction was passed by His Highness last night. It is being recopied, but as this is Sunday, I don't expect to be able to send it before tomorrow. Hoping that this slight delay will not inconvenience you in any way.

No. 26.—*Letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, To General Sir Harry Prendergast, Resident in Mysore, No. 7, dated Bangalore, 24th August 1891.*

I am directed by His Highness the Maharaja to acknowledge the receipt of Colonel Sir Oliver St. John's letter No. 1012—479-8, dated 2nd April 1891, communicating the decision of the Government of India regarding the transfer to the British Government of jurisdiction (Civil, Criminal and Police) over the Mysore State Railway, and with reference to your conversation on the subject, first with myself and afterwards with His Highness the Maharaja and subsequent demi-official correspondence, I am directed to submit the following points for the consideration of the British Government.

2. His Highness asks me to thank you for agreeing to submit to the Government of India, a further representation on the subject in full detail, and in making now this representation, His Highness asks me to add that, should the Imperial Government, after consideration of all the circumstances now to be represented, finally decide that the jurisdiction over the Mysore State Railway must hereafter be vested in itself and not in His Highness as heretofore, then in that case, His Highness will loyally give effect to their decision in this matter, as indeed in all matters pertaining to the administration of his State.

3. With these preliminary remarks, I am to say that the discussion regarding Railway jurisdiction has hitherto been of a fragmentary character and it is therefore desirable to submit to His Excellency the Viceroy a brief review of the past history of the State Railway, which, it is hoped, will convince His Excellency that the transfer of jurisdiction now asked for will bear with undue and exceptional hardship upon the Darbar.

4. The first section of this Railway, *viz.*, Bangalore to Mysore, 86 miles, was commenced and partly constructed during the British Administration out of State Funds under the authority of the Secretary of State's Despatch of 22nd May 1879. On the date of Rendition (25th March 1881), 42 miles were open for traffic and the outlay amounted to Rs. 25,19,198. The Darbar completed this section by 25th February 1882, and partly out of current revenue and partly out of a local Railway Loan of 20 lakhs contracted in August 1882, they were able to carry their Railway first to Tumkur and afterwards to Gubbi, but its further extension towards Tiptur (an extension which the Darbar were most anxious at once to carry out and for which they had ample funds at their disposal) was stopped by *order of the Government of India pending a settlement "with regard to "the whole subject of the general Railway system and the financial position of the "Mysore State."

Vide Resident's letter No. 1071—172, dated 14th August 1884.

5. In the meantime, Sir Theodore Hope (Public Works Department Member of the Government of India) had visited Mysore and started the idea of a hypothecation of the State Railway to the Southern Mahratta Railway Company and the repayment of the Famine debt due to the British Government out of money to be raised by such hypothecation. Sir Theodore Hope's visit was in November 1883. During this visit, at a Conference held at the Residency, the general financial condition of Mysore, the enhanced subsidy, the Famine debt and Railway extension, all came under discussion. The Darbar quite disapproved of the proposed hypothecation of its Railway to the Southern Mahratta Company as being of distinct disadvantage to them, and they submitted, in February 1884, for the consideration of the Government of India, a Memorandum on the Finances of Mysore and certain proposals for carrying out the extension of its Railway up to Haribar. These proposals, called "the Dewan's scheme" in the subsequent correspondence, were considered along with what is known as "Mr. Hope's Scheme" (*Vide* Major Begbie's Memo, dated 17th June 1884).

6. In a joint Memo by the Dewan and the Mysore Consulting Engineer, dated 25th August 1884, the Darbar pointed out how "Mr. Hope's Scheme" was very disadvantageous to the Darbar and how "the Dewan's Scheme" might easily be modified, so as to make it more acceptable to the Government of India. The Government of India, however, still thought that "Mr. Hope's Scheme" was the best for Mysore and the Darbar were called upon to accept it (*Vide* D. O. correspondence between the Resident and the Dewan in October and November 1884, and January 1885). The Darbar most earnestly deprecated the proposed arrangement with the Southern Mahratta Railway Company, and offered, if permitted, to carry out the proposed extension themselves by means of a loan from the public. And as a last resort, they begged for at least some modification of "Mr. Hope's Scheme" so as to make it *less disadvantageous* to them. The disadvantage of "Mr. Hope's Scheme" thus submitted to the Government of India consisted in—

1*st.* The Darbar being asked to hand over to the Southern Mahratta Railway Company, the 140 miles from Mysore to Gubbi already constructed by the State and being required to pay ¼th net earnings on this length; and

2*ndly.* The Darbar being required to substitute, in place of the Famine debt due to the British Government, an equivalent debt to the Southern Mahratta Railway Company.

7. The Famine debt, under arrangement sanctioned* by the Government of India, was bearing interest at 4 per cent and was repayable with such interest in 41 years by easy annual instalments of 4 lakhs of rupees, whereas, the debt due to the Southern Mahratta Railway Company would not only bear interest at 3½ per cent (subsequently raised to 4 per cent) but also involve the payment of a quarter share of net earnings of the entire Railway. The payment of such quarter share was an additional new burden at least in respect of the 140 miles constructed by the State, firstly as this length could in the usual way be leased to the Company to be worked by it without any share of profit and for a percentage of gross earnings fixed so as to cover actual expenses, and secondly, as the Famine debt which was

*Letter No. 167, J. P., dated 14th March 1882.

being gradually repaid under the favorable arrangement of March 1882, did not press for payment and there was no need for immediately repaying it by borrowing from the Southern Mahratta Railway Company on less favorable terms.

8. The Government of India eventually required the Darbar to accept "Mr. Hope's Scheme" and made such acceptance a condition precedent to the postponement of the enhanced subsidy of 10½ lakhs for a further period of 10 years from 1886-87, though the Government of India were themselves pleased to regard such a postponement as really required on the ground that the revenue of Mysore was not so large as was anticipated at the time the amount of the enhanced subsidy was fixed (Resident's letter Camp No. 1, dated 17th June 1885). The Darbar had thus to decide which alternative to accept, namely, whether : —

(1). To accept "Mr. Hope's Scheme" and along with such acceptance, to receive the concession of a further postponement of the enhanced subsidy for ten more years,

or

(2). To refuse to accept "Mr. Hope's Scheme" and pay the enhanced subsidy from 1886-87.

9. For obvious reasons, the Darbar decided to accept the former alternative. (*Vide* Dewan's letter to the Resident, No. 16, dated 3rd July 1885).

10. "Mr. Hope's Scheme" which came thus to be accepted by the Darbar, contemplated, among other things, first a direct contract between the Darbar and the Southern Mahratta Railway Company with full powers of audit and control to the State, and secondly, a rate of interest on capital to be raised by that Company at 3½ per cent per annum. On both these points alteration was made by the Government of India without the consent of the Darbar, that is to say,—

First.—The contract was made between the Company and the Secretary of State, on the ground that in that way the Darbar could get better terms, but with the eventual result of the Darbar losing all practical control over the management, and

Secondly.—The rate of interest was made 4 per cent instead of 3½ per cent which was the rate the Darbar had agreed to.

11. On the 28th April 1886, by telegram from the Resident, the Darbar were asked to give possession of the Railway to the Southern Mahratta Railway Company and were informed that the terms of contract with the Company were still being considered in the India Office. On representation that the transfer of possession before a definite conclusion of contract would be disadvantageous to the Darbar, the Government of India *observed:—

**Vide* Resident's D. O. letter dated 19th June 1886.

"The Secretary of State has already entered into a contract with the South-
"ern Mahratta Railway Company and funds have been raised by the Company
"on the strength of the contract. The Secretary of State concluded the
"contract in virtue of the authorization given by the Darbar and has obtain-
"ed the best terms he could for the Darbar. The time for the discussion of minor
"details is past. In this matter, the Secretary of State has acted as he would in
"contracts on behalf of the Government of India which never has the opportu-
"nity of discussing minor details, nor in fact could do so effectually at a
"distance."

12. After this explanation, the Darbar abstained from further discussion and handed the Railway over to the Company on 1st July 1886.

13. The financial anticipations entertained in respect of "Mr. Hope's Scheme" have not been realized, as, on the one hand, the net earnings of the Railway since the transfer have been far below the estimated figures and, on the other, the annual payments to the Company have been far heavier than were originally calculated.

14. The circumstances as above briefly narrated under which the entire State Railway was transferred to, and is being worked by, the Southern Mahratta Railway Company will, His Highness hopes, have some weight with His Excellency the Viceroy in the final decision of the question of jurisdiction. The Darbar have been informed that the transfer of jurisdiction to the British Government has no necessary connection with the transfer of the Railway itself to the Southern Mahratta Railway Company under contract for a definite term, but the circumstances under which the transfer was effected will, it is submitted, furnish some ground for exceptional treatment on the question of jurisdiction.

15. The Darbar may perhaps be permitted in this place to advert to the previous orders of the British Government in regard to Railway jurisdiction in Mysore, although in so doing I may have to repeat some arguments relied upon in previous letters.

16. The first order on the subject is contained in Proceedings of the Government of India No. 2600, dated 22nd November 1877, wherein were laid down the conditions on which the lands required for the Bangalore Branch of the Madras Railway were to be held and "on which other lands that may be required by the "British Government for Railway purposes in Mysore are to be given up by "the Mysore State." One of the conditions thus laid down was "that full "jurisdiction in such lands, short of sovereignty rights, shall be ceded absolutely "to the British Government."

17. In letter No. 828, P., dated 24th April 1878, the Government of India requested the late Chief Commissioner of Mysore to record in his Office the Proceedings of 22nd November 1877, "as containing the conditions upon "which lands already made over by the Mysore State for Railway purposes to the "British Government are held and on which other lands that may be hereafter given for Railway will be made over by the Mysore State."

18. The words "lands required by the British Government for Railway pur-"poses in Mysore" would apparently apply to a British Railway in Mysore and not to a State Railway constructed by, and belonging to, the State. Indeed, in letter, dated 3rd March 1880, from the Government of India to the Secretary of State which explained the terms of the Draft Instrument of Transfer, the following passage occurs :—

"And although the Maharaja will bind himself to make over free of cost "any land required for a British Railway, the transfer of plenary jurisdiction in "such land is a point for future examination upon grounds of administrative con-"venience."

19. Here the words "British Railway" were actually used and therefore the imperial policy is quite clear in regard to the transfer of jurisdiction within lands required "for a British Railway" or "by the British Government for Railway purposes in Mysore."

20. Para 15 of the Instrument of Transfer is however not so clear, for it refers to a Railway in Mysore which the British Government may at any time desire "to construct or work by itself or otherwise," but it is submitted that this para is construable in the light of the explanation contained in the letter of 3rd March 1880 and this explanation was before the Secretary of State when he accorded his sanction to the Instrument of Transfer in Despatch, dated 12th August 1880.

21. Again after receipt of this Despatch, the Government of India wrote on 25th October 1880 to the late Chief Commissioner in regard to several matters connected with the Rendition of Mysore and the terms of the Instrument of

*Letter, dated Calcutta 17th December 1880.

Transfer and the Chief Commissioner in replying to this letter *wrote as follows on the subject in question :—

"The jurisdiction and management of the Mysore State Railway may best be "left in the hands of the Native Government. It is purely a local Railway and "would require considerable extensions in future. The Native State may be left "to arrange for these, taking council with the Resident in regard to any loans "or other financial arrangements for construction. It will be necessary, however, "to obtain from the Mysore State a formal assignment of jurisdiction over the "lands occupied by the Madras Railway. Such jurisdiction may conveniently "be exercised by the officers appointed to administer the Bangalore Canton-"ment."

22. In passing * orders on the various points connected with the Rendition set forth in the above letter, the Government of India expressed there concurrence with their Chief Commissioner's views "regarding the jurisdiction and management of the "Mysore State Railway." This, it will be observed, was several months after the Instrument of Transfer had been prepared and had received the approval of the Secretary of State and from the absolute and unqualified consent given as above by the Government of India, in their letter dated 24th January 1881, to the jurisdiction and management of the Mysore State Railway remaining in the hands of the Native Government, it seems fairly inferable that the Mysore State Railway was not regarded as coming within the category of Railways in respect of which it was a part of the Imperial policy to require a cession of jurisdiction.

* Letter No. 92 I. P, dated 24th January 1881.

23. When this letter of January 1881 was written, the possibility of an extension of the Mysore State Railway towards Harihar was foreseen and therefore such extension when actually carried out could not by itself give rise to the necessity of transfer of jurisdiction.

24. Shortly after the Rendition, the Resident, in his letter of 28th May 1881, asked the Government of India "how far, if at all, the details of the management of the Mysore State Railway are to remain under the supervision of the Government of India." The Government of India in reply * stated.—

Paras 2 and 3 of Government of India letter No. 1,171 I. G., dated 20th September 1881.

"It is not the wish of the Government of India to interfere in the management "of the details of the Railway, but a certain amount of supervision will be neces-"sary in order that no marked departure be permitted from the broad general "principles under which all the Railways in India are now controlled."

"Although the Railway is at present of small dimensions and only serves "local interests, still within a few years it may probably be extended into other "Districts of the State ; a connection towards the north with the Southern Mahratta "system of Railways (now being commenced) must soon follow, and an outlet through "the Wynaad towards Beypur will eventually be made. The Mysore Railway cannot, "therefore, be looked upon as one of merely local interest, but must be considered "as forming part of the net work of Imperial Railways now so rapidly extending over "the Continent of British India. It is, therefore, desirable that the same amount of "supervision that the Government of India deems at present necessary for the "general safety of the travelling public should be extended to the Mysore Railway."

25. These orders of the Government were passed under circumstances that would ordinarily be expected to have elicited an expression of their opinion as to the future possibility of a cession of jurisdiction, had the extension to Harihar been then regarded as likely to involve the same. But the Darbar were merely led to expect that an extension to Harihar might necessitate a closer supervision by the Imperial Government so as to ensure the general safety of the travelling public ; but they had no reason to believe that any surrender of jurisdiction would ever be regarded necessary as the result of such extension. It was under these circumstances that the Darbar extended the State Railway first up to Tumkur and afterwards up to Gubbi as initial steps towards a connection with the Southern Mahratta Railway system at Harihar.

26. Similarly the Darbar have had a more recent indication as to the wishes of the Government of India in the matter of Railway jurisdiction, for at the Conference held at the Residency on 3rd November 1889, between Sir Charles Elliot, Colonel

Sir Oliver St. John and myself when the future programme of Railway extensions in Mysore was discussed and I took occasion to refer to the pending question in regard to Railway jurisdiction, Sir Charles Elliot told me "that as far as he knew the Government of India accepted the Maharaja's jurisdiction and did not press for any cession of Police, Civil, or Criminal jurisdiction to itself." The Proceedings of this Conference, which contained the above quoted statement, were communicated to the Government of India and the British Resident* conveyed to His Highness the Maharaja, His Excellency the Viceroy's cordial appreciation of the interest displayed by His Highness in the development of the resources of the State.

* D. O. letter received 2nd April 1891.

27. One of the projected Railways then under discussion (namely the Bangalore-Hindupur Railway) has since been started and is in progress.

28. It is submitted that there exists no real distinction between the Harihar-Mysore Railway already completed and the Bangalore-Hindupur Railway now under construction and other branches which the Darbar have in view to connect the Gold Mines, Shimoga, Hassan and Kadur, for they all end in various points within the State and are all intended to serve local interests and to develop the resources of the State and most of them to afford protection against famine.

29. If such ramifications of the State Railway are likely to be followed by a cessation of the Maharaja's jurisdiction in all parts of the country which may be traversed by it, then there is no doubt that the gravest administrative inconveniences will result.

30. The Darbar view with serious apprehension the great weakening of their hands which must necessarily follow the interposition in all directions throughout the country of long narrow strips of British jurisdiction over which His Highness' Courts and Police would have no control, and which would tend to multiply in the very heart of the State the difficulties which are experienced along its long frontier line in the matter of prevention and detection of crime. Mr. Ricketts, one of our most experienced officers, who filled responsible offices under the British Administration and is himself a Justice of the Peace, and has been for several years the Inspector General of Mysore Police, has submitted a memo in some detail on the way in which the transfer of Railway jurisdiction would affect the Police Administration and I beg to append to this letter a copy of his memo.

31. I may also add that if, as proposed in the draft notification sent with the Resident's letter No. 3666—479-8, dated 2nd November 1888, the Courts of the Civil and Military Station should have jurisdiction over the entire system, the expense and delay involved in parties and witnesses having to travel from all points of an expanding Railway, several hundreds of miles in length, to the Courts in the Civil and Military Station of Bangalore, would be such as often to amount to a denial of justice.

32. I beg now to offer a few observations on the questions relating to administrative convenience mentioned in Colonel Sir Oliver St. John's letter under reply.

33. He has mentioned four reasons for requiring the transfer. The first of them is that the transfer of jurisdiction will remove any delay in the administration of justice consequent upon the requirements of the Foreign Jurisdiction and Extradition Act ; the second is that if jurisdiction were not ceded, it must be divided and the third relates to the trial of European British Subjects and others when jointly charged with the same offence. There is a fourth reason which I shall notice by and bye. But taking the first three reasons in a group, I would urge that they apply with as much force to the whole Territory as to the Railway lines.

34. As regards the first reason, it may be observed that the delay due to the requirements of the Foreign Jurisdiction and Extradition Act is not peculiar or special to Railway lines alone, and it is as likely to arise in other parts of His Highness' Territories as on the Railway lines.

35 Section 1 of the Indian Railway Act of 1879 referred to in the second reason, as also Section 1 of the Act of 1890, extends the Railway law to all subjects of Her Majesty in Native States. That every British subject in a Native State is amenable to the Criminal law of British India, is a general principle that has always been recognized. It is enunciated in Section 8 of the Foreign Jurisdiction and Extradition Act (Act XXI of 1879). Section 1 of the Railway Act, therefore, only serves to remove any doubt which might otherwise possibly arise as to whether the law contained in that Act is a part of " the law relating to offences and Criminal Procedure" referred to in Section 8 of Act XXI of 1879. The law to which a British subject committing an offence in a Native State is amenable before the British Courts being thus laid down, the place at which he is triable is prescribed by Section 188 of the British Indian Criminal Procedure Code (Act X of 1882) which provides that when a subject of Her Majesty commits an offence (an offence whether under the Railway Act or any other law for the time being in force in British India) at any place beyond the limits of British India, he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found. Thus Her Majesty's subjects committing offences in Native States under the Railway Act or any other law in force for the time being in British India may be grouped into two classes. Firstly, those who commit offences and escape into British Indian Territory ; and secondly, those in which the offenders are arrested in the State itself. The former are dealt with under the Extradition Act or Section 188 of the Criminal Procedure Code and the latter are under the jurisdiction of the State itself. Under such circumstances, it is not easy to understand what is meant by the statement " were jurisdiction not ceded, it must be divided," unless it means that the first group of cases would come under the jurisdiction of the British Indian Courts and the second group under that of the State Courts. If this is what is meant, then the same argument would apply with equal force to offences committed not only under the Railway Act, but under any other law in force not only on the Railway lines but all over the State.

36. The protection afforded to European British subjects has existed all along. With the number of European Officers in Mysore appointed by the British Government as Justices of the Peace and others that may hereafter be similarly appointed, no inconvenience has hitherto arisen or is likely to arise in future either in the trial of European British subjects or persons accused of having committed offences conjointly with such subjects. We have already six Justices of the Peace in the service of the Darbar, three at Bangalore, one at the Gold Mines, one at Mysore and one at Chikmagalur, Kadur District. The last mentioned officer, who is also District Magistrate of Kadur, (Colonel J. A. Campbell, for many years Secretary to the late Chief Commissioner and Commissioner and District and Sessions Judge during the British administration) has jurisdiction over the Railway line from Tiptur to Harihar and the Darbar will, if necessary, place the entire Railway under one or more European Magistrates.

37. The fourth and last reason given in Colonel Sir Oliver St. John's letter under reply is as follows : —

" To lines over which jurisdiction is ceded, the Indian Railway Act is applied and uniformity of procedure is thus obtained. Were jurisdiction not ceded, " each State would have to try to frame an adapted Railway Act, whereby uniformity of procedure on the different lines would be considerably impaired." To the Mysore State, however, the Indian Railway Act of 1879, in its entirety, is already applicable, having been introduced into Mysore by the Notification of the Government of India, dated Simla, 10th June 1879. In British India, this Act has been superseded by Act IX of 1890 and it would now be as easy to apply the latter to Mysore without any process of special adaptation as it was in 1879 to apply the Act of 1879. In this respect, the circumstances of Mysore are widely different from those of all other Native States as these would naturally find some difficulty in fitting a Railway Law into their Statute books, but in Mysore no such difficulty has been experienced or can ever arise, because its laws are already identical with those of British India, and a Railway Law would find a place among them (as indeed it has done during the past 12 years) without adaptations and modifications likely to make it different in any way from that of British India.

38. Again in the matter of working a Railway Law, identical with that of British India, Mysore, unlike other Native States, has ready to hand the requisite administrative machinery and it has always found it as easy to work a Railway Act and Rules regarding Railways under construction and open for traffic, accident, &c., as any Local Government or Administration of British India.

39. The new Railway Act of 1890 vests in the Governor General in Council various specific powers to ensure the general safety and convenience of the public and the efficiency of Railway management. All these powers are already exercised by His Excellency within the Mysore State Railway and cession of jurisdiction is unnecessary to enable him to continue to do so.

40. There are certain other matters such as the responsibility of a Railway administration as carriers (Chapter VII) and penalties and offences (Chapter IX) in regard to which Civil and Criminal Courts have jurisdiction. In Mysore, analagous provisions already exist under the Act of 1879 (Chapters III and V) and the jurisdiction thereunder is exercised by the Courts of the State. The Darbar are prepared to enlarge and modify these provisions so as to make them identical with those of the Act of 1890, as also to do whatever else may be necessary to make the law in Mysore the same as that of British India. The Darbar will further guarantee that jurisdiction under a Mysore Law identical with Chapters VII, VIII and IX of the Act of 1890, will always be exercised by their Civil and Criminal Courts in such a way as to cause no inconvenience either to the Railway administration, the public or the British Government. The Courts under the various local Governments of British India exercise the special jurisdiction in question, and the Courts of Mysore similarly constituted, and administering the same laws, can, with equal safety, be trusted to exercise the same in a proper and satisfactory manner.

41. Section 134 of the Act of 1890 (like Section 50 of the Act of 1879) allows of any person being tried for an offence under the Act in any place in which he may be found as well as in any other place in which he might be tried under the law for the time being in force.

42. Whether Railway jurisdiction is ceded to the British Government or is allowed to continue in the hands of the Maharaja, the Mysore Railway law as regards its source of sanction will be different from the British Indian Railway Law. The latter will be a law emanating from the British Indian Legislature, while the former will be based upon the Maharaja's sovereign authority whether exercised by himself or by his Excellency the Viceroy, so that any small class of cases which cannot be dealt with under the Railway laws of British India or of Mysore will remain without a remedy even were plenary jurisdiction ceded to the Government of India.

43. His Highness asks me to refer in this place to some of the special circumstances which make the case of Mysore so widely different from that of every other Native State and constitute its claim for an exceptional treatment from His Excellency the Viceroy in the matter of its Railway jurisdiction.

44. During the fifty years of British Administration, all important British Indian laws were introduced into Mysore and an efficient system of administering them was established. By the Instrument of Transfer, the Maharaja is required not to repeal or modify these laws without the previous consent of the Governor General in Council, but always to administer them efficiently. And generally His Highness is expected to maintain the Government of the State "at the British Indian standard of efficiency." His Highness is further required to respect the advice of the Governor General in Council in all matters "connected with the advancement of His Highness' "interests, the happiness of his subjects, and his relations to the British Government." With such a close and continuous control, conflict of legislation or diversity of procedure is practically impossible in so far as the Mysore State is concerned.

45. Colonel Sir Oliver St. John, in speaking of the Railway arrangements made by the Darbar, says "these arrangements have been efficiently and loyally car- "ried out and no cause of complaint has arisen."

46. You are yourself doubtless aware that as regards the constitution of our Courts, the status and qualifications of our Judges and Magistrates, the methods of trials and the independence of judicial tribunals, in short, in all the essential

requirements of a high standard of Judicial Administration, Mysore is identical with the British Indian Districts which surround it. It would seem to deserve consideration whether because other States may not be able to frame a Railway law on the lines of the British Indian legislature, or may not possess the agency for working it when framed, therefore Mysore which has given practical proof of its ability in both these matters should be deprived of its Railway jurisdiction, for the sake of "uniformity of procedure" which has hitherto not suffered by its exercising jurisdiction on its Railway.

47. In conclusion, His Highness wishes me to explain that in setting forth his views as given in the above paras, in such a frank unreserved manner, he should not be understood to be wanting in a due sense of all that the British Government has done for him and for his State. He feels that the very fact of this question of jurisdiction being allowed to be kept open so long is an additional proof of the exceptional consideration which the British Government has always shown to him, and he would not have attempted a further appeal to the goodness and generosity of the British Government at this length, if he did not feel sure that his motive would not be misunderstood, and he was not confident of his claims being patiently considered before a final decision was arrived at.

48. It may not be unknown to you that the transfer of the Anche or Local Postal system, a purely indigenous institution, closely allied with the traditions of the Mysore Dynasty, was not very popular with the subjects of His Highness. The amalgamation of this system with the Imperial Postal system followed closely on the transfer of the Mysore State Railway. This Railway, as you are aware, was constructed under Native State supervision and with local resources and capital and afforded a new field for Native talent, and for Native Administrative capacity, and its transfer to a Company elicited equal disapprobation from the people of Mysore.

49. His Highness is grateful to the Government of India for the good opinion it entertains of his admininstration and for its willingness to continue his jurisdiction if such continuance was not productive of administrative inconvenience from a legislative point of view. He believes that the difficulties in the way of securing a uniformity of law and procedure cannot be insuperable; and if His Excellency the Viceroy in Council thought His Highness had merited the good will of the British Government, the inconveniences apprehended, could, he believes, be easily remedied in any way that may commend itself to His Excellency the Viceroy.

50. There are large British interests in Mysore, such as those of the Planters and the Gold Mining Companies, and His Highness believes that everything has been done to promote their convenience and safeguard their privileges, and His Highness entertains the firm hope that, should jurisdiction in the lands of the Mysore State Railway continue to vest in him, the exercise of such jurisdiction by his courts will always be such as to promote public convenience and advance Imperial interests in every possible way.

51. His Highness sincerely feels that by the interposition of a British jurisdiction in almost every part of his territories, there will be difficulties placed in the way of his administration, and it is this view of the question, more than any apprehended loss of prestige, that has induced him to make this further appeal to the Government of India.

Enclosure 1 in No 26.

Memo on the question of Railway Jurisdiction by Mr. L. Ricketts, Inspector General of Police in Mysore.

The 23rd August 1891.

I beg to preface with the following remarks my observations on the papers sent to me for opinion. I do not understand the present question to be an Imperial one

or I should unhesitatingly counsel ready compliance with the wishes of the Supreme Government. Neither do I consider the matter to be one of sentiment only on the part of the Mysore Government or I would similarly advocate yielding the point. The objections taken by many Mysoreans to the Imperial Post taking the place of the local Anche Department was in my opinion a question of sentiment, which should not be allowed to weigh against the manifold advantages of the Imperial postage system, though probably many a loyal Native subject thought otherwise and regarded the transfer as loss of personal prestige to His Highness the Maharaja. Again similar objections and on like grounds were urged against the late Mysore State Railway being merged as it were into the Southern Mahratta Railway system. If it had been known at the time that this merging or hypothecation of our local Railway system was to involve ceding plenary powers to the British Government over the whole line and its Stations, &c., I am certain that there would have been a great outcry to any change of system at all. It is difficult to gauge Native opinion and thought in such matters ; but I feel pretty positive that from the lower classes up to the Representative Assembly and even, I may add perhaps, including His Highness, such cession of territory and jurisdiction is not regarded as a mere matter of sentiment alone; but as a question of wounded susceptibilities or loss of "Abroo" and possible future embarrassment. The victorious Germans were within their rights when they demanded the cession by the French of Alsace and Lorraine; yet how opinions differ as to the advisibility of the demand, looking at the peculiar temperament of the French nation and the rankling sore it has created? The circumstances of the two cases are of course widely and supremely different; but still the unwilling cession His Highness is called upon to make will to a certain extent be mortifying and hurt feelings in a manner which it is desirable to avoid if possible. It must be humiliating to His Highness the Maharaja to be reminded every time he has occasion to travel that even in his own Territory and on his own Railway he cannot journey without passing into local jurisdiction other than his own. Again when he has to receive distinguished guests in his Territory, he must depend upon other Police than his own for enforcing order or taking care of their safety on the Railway, and what is even of more importance, in an oriental point of view, whether as regards His Highness or His Princely guests, His Highness will have to depend upon the courtesy of foreign officials for those customary marks of respect and honor which properly, and I think of right, should devolve on his own subjects and officials. The Maharaja too as a constitutional Prince will have to account to his subjects for thus abdicating, as it will seem to them, some of his most important Princely functions and how can he satisfactorily do so unless cogent reasons of Imperial Policy, stronger than those put forward in the papers furnished to me, can be assigned by him as the cause of his cession of Territory with its attendant complications so far as the Mysore Police are concerned.

2. I again respectfully repeat that I am writing this Memo on the supposition that the question under discussion is not one affecting the safety or interests of the Empire when loyalty would demand every sacrifice on the part of His Highness and his responsible advisers. I rather regard it in the light of a question of mere administrative convenience of no overwhelming force and open to discussion on its merits both legal and equitable.

3. There has recently arisen a discussion between the Government of Madras and His Highness' Government as to the right of the latter to impound water for irrigation purposes in its own feeding grounds. The question apparently is one of riparian proprietorship, dominant and servient rights, and so on ; yet it was contended at one time that Mysore as a feudatory could not rely on the law applicable in such cases, but must acquiesce in taking the position that may be assigned to it by the Paramount Power ; even arguments such as the following being used, namely, that as a small State like Switzerland would not be allowed by the European Powers to divert a navigable river such as the Rhine from its accustomed flow or current, so neither could Mysore divert irrigation water for its own purposes unless it had permission of the Paramount Power so to do. This contention, it is needless to state, alarmed our irrigation Engineers and discussion arose ; and as in that case, no offence was taken at Mysore for arguing for its own rights, so, in the present case, I trust that I may be allowed the liberty of saying a few words on the practical aspect of the question, more especially, as it affects my own particular Department, namely the Police.

4. I shall first deal with the reasons (*a*) to (*d*) urged in the Resident's letter No. 1012—479-8, of the 2nd April 1891, No. 23, of the printed papers. The objection urged here, based on the delay involved in the procedure of putting the Extradiction Act into force, is applicable not only to offences committed on the Railway, but also to those committed in other parts of Mysore, in which the offenders may happen to escape into British Territory, with this difference, however, that in the case of offences committed on the Railway, the facilities for preventing the offender from escaping from Mysore are much greater than in the other. An efficient Railway Police ought to be able to arrest the offender on the spot, without any chance of escape. The field for the commission of offences on the Railway being circumscribed, it must be easy to spot and arrest the accused and there should be little need for applying to the Political Agent for rendition. During the time that the Darbar Courts have been exercising jurisdiction over the Railway, it will be seen, that there have been no cases in which there was any necessity for putting the Extradition Act into force. In practice, therefore, the inconvenience assumes an insignificant form.

6. This objection again is not confined to the Railway. Courts in Native States cannot try European British subjects offending in other parts of their dominions either; Section 6 of the Foreign Jurisdiction Act is intended to remove this defficulty. The Government of India under this Section appoints its own Justices of the Peace. This solution of difficulty is capable of application to the Railway line equally. Under the Darbar, there are no less than 6 Justices of the Peace so appointed, one at Mysore, three at Bangalore, one at Chikamagalur in the Kadur District, and one at the Gold Mines, Kolar District. Colonel Campbell, the Justice of Peace and District Magistrate at Kadur exercises jurisdiction over the Railway line from Tiptur to Harihar. The Darbar has also expressed its readiness to constitute the Railway into a District by itself with a European District Magistrate at the head of it.

7. The relations of the different States to the Federal or Central Government in the United States and Canada are essentially different from those which exist between the Native States of India and the Paramount Power. It has to be noted that in the Federal or Central Parliament, each State is represented by its delegate. It is also believed that there is equality and reciprocity between the different States as regards the rendition of offenders against their laws; and no State is in a position of disadvantage, having to obtain extradition through the Political Agent. The relation of Feudatory and Suzerain does not obtain between the different States and the Central Government. When perfect equality is recognised, there can be no derogation in transfers of jurisdiction for common advantage; nor is such transfer likely to be misconstrued by the subjects. The analogy, therefore, of the Commonwealth of the United States and the self-governed Colony of Canada does not seem to be appropriate, especially when we consider that the laws and usages of some of the States of America are so startling and diversified that it is undoubtedly a convenience, if not even a gain, that the Federal Government of the Union should have sole jurisdiction over a line running through many States. Let us on the other hand suppose, on a long line of Canadian Railway, a small Foreign State intervened, which wished to have its own Railway Police and Magistrates and had proved its capacity to do what was required, would any interference be called for or evoked against such natural wish? I apprehend not, unless it was intended to resort to the law of force. Take also the case of Railways on the Continent running continuously through, say, Italy, Switzerland and France; there is no inconvenience or question of Railway Police, as far as, I am aware. Each country has its own Police and its own Railway Stations, the only and, in fact, grave inconvenience being as regards custom duty. In fact, the same rule prevails in India, where each Presidency provides its own Police for Railway Stations. The uniformity of procedure, on which so much stress is laid in the Resident's letter above quoted, is easy of achievement in the case of British India and I maintain emphatically that it is equally easy of accomplishment in the case of Mysore.

8. The position of Mysore is widely different from that of other Native States in India. Mysore has enjoyed the advantage of 50 years of British rule. Its administrative machinery is cast in the British Indian mould and its Judicial tribunals are constituted on the same models. The laws and procedure are identical or are framed on identical lines. The system of open courts with representation of parties by counsel, inseparably associated with the British constitution, has become the established custom here. The Administration is conducted by the Native officers who have received western culture. In important places of responsibility, the managing agency is manned by Englishmen. Even official correspondence in all the higher offices is conducted in English. The Mysore Administration is nearly as advanced as some of the British provinces themselves. Mysore therefore occupies a position among Native States, peculiar and unique and has claims on the consideration of the Paramount Power such as no other Native State has or can cite as a precedent. It may be that, in the other States quoted, the Police and Magisterial work are not conducted on British Indian lines and that the working of the Railway system would be hampered by the Native States continuing to exercise jurisdiction. It may likewise be that no other Native State can readily find the necessary material for the constitution of the agency for the exercise of that jurisdiction. It may, therefore, have been sound policy on their part to abdicate, in fact, to the Government of India, the exercise of powers, to the responsibilities of which they may have felt themselves to be unequal or which they were glad to get rid of as involving more than they were capable of performing efficiently. But in Mysore, the case is different. Here it was found as easy to work a Railway Act or Acts, rules regarding Railways under construction and running lines, accidents, &c., as in British India. Proof of this is afforded by the fact that when Police functions were assigned to the Mysore Police on the length of line some 300 miles from Mysore to Haribar, I had no difficulty whatever in nominating from the existing force and not from outside, a very competent Railway Police Assistant, very efficient Police Inspectors well conversant with English and competent Police constables. " These arrangements " to quote the words of the Resident "have been efficiently and loyally carried out and no cause of complaint has arisen."

9. It is difficult to exaggerate the serious practical difficulties which must very soon arise and develop from the proposed transfer of jurisdiction. I view with apprehension and almost with dismay the serious embarrassment which must follow from the Province being split from one end to another by a strip of Territory over which we shall have no control. If the question of extradition and jurisdiction over European British and other subjects on a small area of Railway line should be felt to be an inconvenience, how much more perplexing will it be to the Darbar to have Mysore traversed by a belt of ever-increasing country within which it will have no power whatever? With each extension of the Railway, the difficulties will increase and will be intensified. The Police administration will be the principal sufferer from the proposed alteration. With the expansion of the Railway, the criminal classes of the Province are entering upon a new phase of existence. With facilities of communication, their resources also multiply for eluding the vigilance of the Police. In Mysore as well as in every other Province, the Railway Police is the key to the Provincial Police Administration. At present, the Railway and District Police form one body and under one head and are accordingly able to act in unison. If the proposed transfer is effected and the two bodies are separated, the present facilities for ready interchange of information and prompt co-operation for the purposes of prevention and detection of crime will cease, with the inevitable result that each of the two forces will throw the blame on the other and the efficiency of the Police Administration generally will suffer. Neither of them can be expected to act in concert with the other with the same amount of interest and fear of punishment as if both were under the same departmental head. A criminal has only to cross the hedge of the Railway line to be out of the power of the Mysore Police and then we will have to depend entirely upon the help of the Police of the Assigned Tract, and *vice versa*. The necessary consequence of this will be friction, irritation and mutual dissatisfaction. It must be remembered that this is not a small strip of land; it is nearly 300 miles of Railway traversing the heart of the Province and almost every District in it. With the Hindupur extension which will follow suit, and with a network of other Railways in possibility, necessary for protecting the Province from famine and for developing its resources, our difficulties will be considerably enhanced in dealing with the ramification of crime

which will develop with increased means of rapid communication, which will open up the Province to the criminal classes from beyond Mysore. The capacity of the Darbar for grappling with crime will be greatly crippled and the State will find itself in a situation of embarrassment in the discharge of the first functions of all Governments, namely the protection of life and property.

10. A foreign Railway Police will naturally centre its attention mainly on the efficiency of its arrangements as regards the Railway line itself. A local Railway Police under my direct orders goes much further and watches bad characters, thieving classes and the like, not only in view to their possible depredations on the line of Railway but also with the object of giving timely information to the District Police. If they neglect this important part of their duty, I have the power of punishing them, but such power of prompt punishment disappears as soon as a foreign Railway Police is introduced. With such introduction, I lose the key of my position and will have to depend upon the sufferance or good will of a Police which will in fact be my subordinates in point of position. In fact, I shall be placed in a very awkward position at times and one which will certainly not tend to the general efficiency of Police matters throughout the District.

11. As I am limited as to time in sending in this Memo, I am unable to enter into details as to the grave delays and inconveniences which will arise with every addition of Railway lines under the system proposed by the Supreme Government. What the rendition of a prisoner arrested in British India implies, including of course the Railways, in its forms and tedious procedure can only be known to the initiated. Even direct correspondence is denied to us. We must send our letters through the Dewan to be forwarded by him to the Resident to be passed on to the British India Office we are addressing. The Resident is perhaps at Coorg and the Dewan may be on tour and the terrible delay and obstruction consequent thereon can easily be imagined. If the cession of Territory required by the Supreme Government is conceded, a criminal, even for the most petty offence, has only to get on the Railway line, carriage or station to be free of our jurisdiction till the lengthy details of Extradition Law are sufficiently carried out to authorize the British Railway Police in handing over the offender to the Mysore Police, when the chance of conviction after such lapse of time may become uncertain even if the prisoner should be found at all.

No. 27.—*Letter from Mr. K. Sheshadri Iyer, Dewan of Mysore, To General Sir Harry Prendergast, Resident in Mysore, No. 8, dated Bangalore, 28th August 1891.*

In continuation of my letter No. 7, dated 24th August 1891, regarding jurisdiction within the lands of the Mysore State Railway, I have the honor, by direction of His Highness the Maharaja, to forward herewith an extract from a Memorandum on the subject by the Judges of the Chief Court which has been received since my letter to you was despatched.

2. The Memorandum will, His Highness hopes, be of some use as it deals with the legal questions involved and explains the status of our Judges and Magistrates and their qualifications to administer a Railway Law.

3. Paras 17 and 18 of the Memorandum contain a suggestion to the effect that the scope of the Schedule appended to the Extradition Act may, with advantage, be enlarged so as to include not only Railway offences, whose number will always be very small and their nature insignificant as a rule, but also criminal breaches of contract which are numerous and affect large interests. Regarding the latter class of offences, the large European Planting community in Mysore and the Gold Mining Companies of Kolar all bitterly complain of the want of reciprocity in this matter between Mysore and the neighbouring Districts of British India. They are practically without a remedy, if a person takes a large advance from them, wilfully breaks his contract and escapes to British India. There, as the law now stands, no Mysore process can touch him nor can the Darbar apply for his arrest and surrender to its Courts, as "Criminal Breach of Contract under Act. XIII of "1859" is not included in the Schedule appended to the Extradition Act."

4. In letter* from the Under-Secretary to the Government of India in the Foreign Department to the late Chief Commissioner of Mysore, No. 84 J, dated Simla, 25th June 1878, the question of reciprocity between Mysore and British India as regards Civil and Criminal processes was discussed at some length. Mr. Sandford, the late Judicial Commissioner of Mysore "thought that an executive order of Government would suffice to make the pro- "cesses of British Courts respected in Mysore but that Legislative action would "be necessary to obtain reciprocal treatment for Mysore processes in British Terri- "tory," and he "doubted whether it would be equitable to enforce respect to the "processes of British Courts in Mysore so long as reciprocity did not exist." Both Mr. Saunders and afterwards Sir James Gordon (Chief Commissioner of Mysore) recommended that, simultaneously with the issue of executive orders, directing the execution within Mysore of all British Indian Criminal and Civil processes, some reciprocal system should be established under which Mysore Civil and Criminal processes would be respected in British India. On the question of reciprocity thus raised, the Government of India observed as follows :—

* Printed with Chief Commissioner's Proceedings of 23rd July 1878.

"It is doubtful whether complete reciprocity is attainable without Legislative "action on the part of Government and the Governor General in Council considers "that under present circumstances it is not desirable to resort to such action."

The decision of the Government of India in regard to all Civil and Criminal processes was therefore as follows ;—

"The processes of British Courts would be respected in Mysore exactly in the "same manner as the processes of Mysore Courts. The processes of Mysore Courts "would be respected in British India to the extent and in the manner provided for "by Act XI of 1872 and by the Civil Procedure Code, the service of summonses "being ensured by executive orders"

5. The Chief Commissioner (by the executive orders contained in his Notifications Nos. 111 and 112 of 23rd July 1878) gave effect to the above decision of the Government of India, in regard to the execution in Mysore of Civil and Criminal processes of British India, by directing that they should be executed in Mysore as if they had been issued by the Civil and Criminal Courts in Mysore. These Notifications now find a place in the Mysore Statute Book.

6. In thus referring to the present state of the Law in British India under which Criminal processes in regard to offences committed in Mysore can issue only under the Extradition Act, the object of the Darbar is to submit for the favorable consideration of the British Government the desirability of conceding to Mysore some measure of reciprocity in the matter of the execution of its Criminal processes within British India. In 1878, the Government of India thought that it was not desirable under the then existing circumstances to resort to Legislation for this purpose. During the 13 years which have since elapsed, great changes have taken place in the condition of the people of Mysore and in their relations with British India. The extension of the Mysore State Railway, the introduction of the Imperial Post with its systems of Money Orders, Insurance, Telegraphs, &c., the great development which has taken place in the Coffee Industry under the impetus of the permanent settlement introduced by His Highness, the rapidly advancing Gold Mining Industry and the general progress of the country have, during these 13 years, very largely widened the relations between Mysore and British India as regards trade, employment of labor, &c. Thousands of coolies from Malabar and other British Districts find remunerative employment on the Kolar Gold Mines ; large numbers of South and North Canara coolies are employed in the Malnad and in the Coffee Districts; Mysore has a large export and import trade with British Indian Districts; the British Capital invested in Mysore in Coffee and Gold Mines is daily increasing and already amounts to a very large sum. Under such circumstances, if the British Government can provide for the execution of Mysore Criminal processes in British India by the British Police and Magistracy, public convenience will be very materially enhanced and important interests including those of the investors of British capital will receive the help and encouragement they so much need at present. Such a concession in favor of Mysore, though unusual as regards a Native State will be justified by the fact that in Mysore (unlike in other Native

States) all British processes are, under the orders of 1878, executed as if they were issued by the Courts of the State.

7. I may perhaps be permitted to add that any objection to such an arrangement, arising from the present state of the law in British India, is capable of being remedied by a small legislative measure.

8. If I may be permitted to submit still another observation, I would state that a concession such as the one in question will of course be enjoyed by Mysore, only on the condition of its Judicial Administration being maintained in every respect in accordance with the British Indian standard. Such a conditional concession will have the effect of stimulating other Native States in striving to improve their laws and judicial administration so as to entitle them to apply for similar concessions to themselves and will in itself be an important step towards that unification of law and administration of justice so essential to the advance which India, as a whole, is making year after year under British rule and protection.

Enclosure 1 in No. 27.

Opinion of the Judges of the Chief Court, on the question of Railway Jurisdiction in Mysore.

The 24th August 1891.

The correspondence shows that neither the Foreign nor the Public Works Department of the Government of India has any objection to the continuance of the existing arrangements under which the Police, Criminal and Civil Jurisdiction over the line of the Mysore State Railway is exercised by proper officers of the State, under the provisions of laws which are similar to those in force in British India. During the Railway conference, which took place in November 1889, Sir Charles Elliott, the then Public Works Minister, intimated that "so far as he knew, " the Government of India accepted His Highness the Maharaja's jurisdiction and " did not press for any cession of Police, Civil or Criminal jurisdiction to itself." It was apparently on the faith of this assurance the Darbar agreed to carry out other extensions of Railway in Mysore. But the question of jurisdiction having been considered in the Legislative Department, it expressed an opinion, that it was " absolutely necessary, as a question of Imperial Policy, that the Government of India " should exercise control over any Railway in a Native State which forms part of a " line of continuous communication, and, in order to exercise that control, must have " jurisdiction over it." That general control and supervision which the Government of India, as the paramount power, has undoubtedly a right to exercise over the Mysore line, to ensure the general safety of the travelling public, is now being exercised; and in a protected State like Mysore, where the Maharaja exercises the functions of sovereignty, subject to the control of the British power which is represented by a Resident Political Agent, His Highness will always be guided by such advice as the Government of India may offer him on any subject connected with the Railway or other administration of the Province. In this manner, the supremacy of the British power and the dependency of the Mysore Native State will always be maintained, and the Imperial Policy, under which it is considered necessary that the Government of India should exercise a general control over any Railway in this State, will be promoted.

2. We gather from the papers which have been placed before us, that the objection of the Government of India to the Maharaja retaining jurisdiction over the Mysore Railway, rests mainly on the grounds of administrative convenience and the limited jurisdiction of our Courts. We beg leave to show that the objections are not insuperable, and that they may be overcome otherwise than by ceding jurisdiction. We would respectfully suggest to the Darbar the propriety of making another representation for the favorable consideration of His Excellency the Viceroy in Council.

3. Before we proceed to consider the objections urged in the Resident's letter, dated 2nd April last, we wish to set out a few facts relating to the Laws in force and the administration of Justice in the Province.

4. Almost all the important laws which are now in force in British India are in force in the Province. The Codes of Civil and Criminal Procedure, the Indian Penal Code, the Indian Succession Act, the Evidence Act, the Contract Act, the Limitation, Registration, Stamp and Court Fees Acts are a few of the important Acts which are in force here. Secondly, we have every facility for modifying old laws and introducing new laws, inasmuch as we have a Legislative Secretary, whose duty it is to note the Proceedings of the Legislative Department of the Government of India, so as to enable the Darbar to assimilate its laws, so far as they are practicable, with the British Indian laws. Thirdly, since no existing law can be repealed or altered, without the previous consent of the Government of India, there is the practical impossibility of our making new laws so as to cause serious conflict between our laws and the laws of British India.

5. Our Courts are constituted on the same lines on which Courts in the Madras Presidency are constituted, and the powers and duties are regulated by special Legislative enactments.

6. Our Civil and Criminal Judges are either men who have passed the B. A. and B. L., degree examinations of the Madras University, or men who have passed the Special Test Examinations prescribed by the Madras Government as qualifications for the appointments of Subordinate Judges or Deputy Collectors, or men who have passed corresponding examinations prescribed by the Darbar.

7. If the existence of an independent Bar is a guarantee for efficient administration of Justice, we have also that guarantee in the Province. We have Advocates and Pleaders of 1st and 2nd Grades, enrolled under the provisions of an enactment passed for that purpose. The position and importance of the Bar of the Chief Court may be judged from the fact that the Advocate General of Madras, the Administrator General, the Crown Prosecutor, the Chief Judge of the Madras Small Cause Court, a member of the Madras Legislative Council, and the leading Advocates and Vakils of the Madras High Court, are Advocates of our Court, not to mention Gentlemen who were called to the Bar in England and who have settled in the Province to practice in our Courts. We hold an annual examination in English for 1st and 2nd Grade Pleaders, and the text books prescribed by us are almost the same as those prescribed by the High Court of Madras.

8. Judges in the Province are as independent of the executive as Judges in any part of British India.

9. We have our own reports of cases periodically published for the guidance of Subordinate Courts and for the information of the public. The language of the Court is English in the higher Courts, and Judges of all grades are able to write judgments in English, and many of them write judgments and orders and record evidence in that language

10. That our Judges are capable of maintaining the dignity and impartiality of Courts is evident from the fact, that Europeans in the Coffee and Mining Districts do freely resort to our Courts and no complaint has been made against any of the Judges or against the system of administering justice. An additional testimony to the efficiency of our Judicial officers and of the system is afforded by the fact that His Excellency the Viceroy in Council has empowered Courts in British India and Courts established by His Excellency in other Native States to execute the decrees made and processes issued by our Courts

11. We hope that the facts briefly stated above are sufficient to prove that the reign of law is supreme in the Province, that the Courts can do justice between Europeans and Natives and Natives and Natives, that they are capable of enforcing the laws which are now in force or which may hereafter be introduced, and that whether we consider the laws in force or the judicial system, or the character and qualifications of the men who have been appointed to enforce the laws, the Province need not fear a comparison with the Presidencies of Madras and Bombay.

12. We will now refer in detail to the objections urged in the Resident's letter, to the continuance of the existing arrangements relative to Railway jurisdiction.

13. One of the main reasons assigned for the cession of jurisdiction is this:— "Were jurisdiction not ceded, it must be divided; for, the Indian Railway Act of 1879 (See Section 1) extends to subjects of Her Majesty on all Railways in Native States independent of whether jurisdiction over the Railway has or has not been ceded by the Native States concerned." Section 1 of the Indian Railway Act cannot be construed as depriving our Courts of their jurisdiction to punish subjects of Her Majesty for offences committed within the limits of the Province and if the offenders are apprehended within the said limits. This jurisdiction our Courts have always exercised, and we do not see how there can be a divided jurisdiction in cases of this kind.

14. If British subjects commit offences in the Province and escape into British India, they can be dealt with by our Courts under the provisions of the Extradition Act. And here we beg to make an extract from the speech delivered by the Honorable Sir James Stephen, when he introduced the Foreign Jurisdiction and Extradition Act of 1872 before the Legislative Council of the Government of India. The Honorable Member stated that "it was introduced with the view of rendering "the administration of justice more expeditious than at present." He also explained the object of the legislation in these words:—"As regards British subjects, who "made themselves liable to punishment and left the State and came into British Ter- "ritory, they will be liable to be arrested and handed over to the Political Agent in "that State, who might, in the case of every such British subject (not being a "European British subject) direct him to be tried by the Courts of the Territory in "which the offence was committed, if the Government of India consented to that "arrangement. The effect would be, that those States which established a regular "system of administration of justice would be placed in a position by which they "would be authorized to try offences committed in their States by Native British sub- "jects. European British subjects in Native States would be placed on the same footing "as that in which they stood in regard to offences committed by them in other parts "of the country.

15. When Act XXI of 1879 (now in force) was passed, a further amendment was made to facilitate the arrest of offenders and to avoid delay. The necessity for the amendent was explained as follows in the statement of objects and reasons:—

"The 8th Section of the English Extradition Act of 1870 empowers a Magis- "trate, when any person is charged with having committed an offence abroad, to issue "a warrant of arrest in anticipation of a request being made for extradition by the "State within whose limits the offence has been committed. Sections 19 and 20 of "Act VII of 1854 contained similar provisions, but they were omitted in Act XI of "1872, the present Extradition Act, which consolidated and amended the existing "law on the subject. Certain recent cases, in which persons have committed offences "in the Nizam's Territory and taken refuge in British India, have shown that some "such provisions are still required to prevent failures of justice. The present Bill, "which has been prepared to meet this want, practically re-enacts, with certain un- "important modifications, what was the law in India up to the year 1872."

16. We have made this long extract to show firstly, that the intention of the Government of India, in enacting the Extradition Act, was to give more facilities to Native States to bring to trial in their own Courts subjects of Her Majesty who committed offences in those States; secondly, that it is the avowed policy of the

British Government not to put all Native States on a footing of equality, but to make distinctions among them ; and thirdly, that the ground of distinction is the introduction of good laws and the establishment of capable and upright judiciary to enforce them. If we have shown, as we flatter ourselves that we have shown, that, in all essential particulars, no distinction can be made between our Courts and the Courts in the neighbouring Presidencies, we conceive that we have made out a good case for according an exceptional treatment to Mysore. We may justly claim to exercise the jurisdiction we have been exercising and we may also claim further extension of our jurisdiction.

17. A difficulty arises if offences not specified in the Schedule to the Extradition Act are committed in the Province and if the offenders escape into British India. To meet such exceptional cases, we would respectfully suggest to the Darbar to apply to His Excellency in Council to include offences under the Railway Act in the said Schedule. We venture to think that it is a natural development of the liberal policy of the Government of India, as indicated in the speech of the Honorable Sir J. Stephen, and that it is a fitting recognition of the endeavours of the Darbar to make their Courts as efficient as possible.

18. It is well known to the Darbar that European Coffee Planters are put to great inconvenience and expense by the escape of coolies to neighbouring British Districts and by the powerlessness of our Courts to arrest them and to bring them to justice. We would respectfully take this opportunity of urging the Darbar to make an application to His Excellency the Viceroy to consider the propriety of extending the scope of the Schedule.

19. It is said that delay would occur in the administration of justice, in cases in which application has to be made for extradition from British Territory. Such cases would be very few and far between. In a vast number of cases, there need be no necessity for making an application for extradition. Since 1881, when the Mysore Railway was first opened, there have been scarcely any offences committed on the line for which the Darbar had to apply for extradition. Such applications have been also very few even in regard to offences committed in other parts of the Province. A statement, showing the number of cases in which extradition has been applied for during the past five years, is appended for information. It is only when grave crimes are committed and when offenders elude the vigilance of our Police and take refuge in British India that we have to apply for extradition. In such cases, of course, whether the offence is committed on the Railway line or elsewhere within the Mysore Territory, there will be some delay, which is inevitable.

20. With regard to the Railway offences generally, we beg to remark that, with the facilities afforded by Sections 48 and 49 of the Act, (IV of 1879), for the arrest and detention, without any warrant or written authority, of offenders, by any Railway servant or Police officer, or any other person whom such Railway servant or Police officer may call to his aid, there is little or no chance of persons committing offences on the line absconding or escaping out of jurisdiction.

21. It is further urged that in "no case could the Courts of the Native State "try European British subjects, and, if jurisdiction were not ceded, it would happen "that European British subjects and others, when jointly charged with the same "offence, would be tried apart by different Courts and under different laws." It seems to us that this objection is easily answered. We have Magistrates and Judges in our service who are European British subjects and who are Justices of Peace ; and, so long as we have a large number of European British subjects settled in the Coffee Districts of Kadur and Hassan and in the Mining District of Kolar, we are sure to have European officers in our service. These officers have power to try petty cases themselves and to commit offenders in grave cases to the High Court of Madras. This is all the power which can be exercised by Magistrates in the Civil and Military Station of Bangalore, if jurisdiction is transferred to the Government of India, and this power can as effectually be exercised by those Justices of the Peace who are in our service. Where a Native and European are jointly accused of an offence, there must be some inconvenience, as pointed out in the Resident's letter, owing to separate trials being unavoidable ; but this is an argument that

applies to similar cases, arising all over the Province, which do not call for any special or exceptional treatment.

22. The last objection urged in the Resident's letter is, that "there would "be no uniformity of procedure, were each State allowed to adopt its own pro- "cedure and the Indian Railway Act is not applied." We have already pointed out that, in Mysore, the Railway Act is in force, as also the Indian Penal Code and Criminal Procedure Code, and all other laws and rules relating to procedure, Evidence, &c., which are in force in British India. So far as the Mysore State is concerned, there will always be a perfect harmony in procedure with that obtaining in the British Territory; as the existing laws may, from time to time, be altered or modified by the Darbar, so as to keep pace with British Indian Legislation. Special arrangements have been made by the Darbar for the trial of offences under the Railway Act. We have a District Magistrate who is also a Justice of the Peace exercising jurisdiction over half the line, and we have another Magistrate in charge of the other half. We have vested our Amildars near the Railway line with 2nd Class powers, so as to enable them to try offences under the Act. The sufficiency of these arrangements has been acknowledged by the Resident.

23. If entire jurisdiction be ceded by His Highness, as now proposed, the subjects of His Highness will be put to the greatest inconvenience. The Courts of Justice in the State, which ought to be freely opened to them to resort to for the redress of their grievances, will be closed to them, and parties and witnesses, even in petty cases, will be compelled to travel great distances and appear before Courts established by the Government of India, and which Courts will not be so near to each Railway Station as the Mysore Courts now are. The system of judicature should be such as affords facilities for the enforcement of civil rights and for the punishment of offenders. Nothing could be more hard than driving parties and witnesses to great distances from their homes. Nothing can more tend to paralyse the arm of Justice. The counteracting influences of different jurisdictions in the same territory can be more easily perceived than described. If a Civil Court issues a warrant to arrest a debtor, or if a Magistrate issues a summons or warrant to an offender, he can easily take refuge in a Railway Station and defy our Courts of law. The Railway, which runs through the heart of the Province, and which connects almost all the important stations in it, will afford ample facilities to dishonest people to render our Courts powerless.

24. It may be reasonably presumed that it is the subjects of His Highness who may oftener commit offences under the Railway Act than foreigners. If a boy flings a stone at a train near Harihar, or if a villager allows his cattle to trespass upon the line near Davangere, it is no small inconvenience, to them and to the witnesses concerned, to be compelled to attend a Magistrate's Court at Bangalore, at a distance of more than 200 miles; and it is humiliating to our Courts that our Judges should be deemed unfit to try men for such petty offences, when they are deemed fit to try those very men for such a serious offence as murder or robbery, if the offence happened to be committed just outside the compound wall of a Railway Station.

25. In conclusion, we beg to add that on a consideration of all that has been said above and the administrative advantages which Mysore specially enjoys over other Native States, having been under direct British administration for nearly half a century, during which time the laws and administrative machinery have undergone a thorough process of assimilation with the British laws, we are emboldened to most humbly advise His Highness the Maharaja to make a further representation to His Excellency the Viceroy in Council; and we venture to express a hope that the decision of the British Government may not be unfavorable to us, if all the facts relating to the administration of justice in Mysore, the number and qualifications of European and Native officers and the laws which are in force are represented in their proper light to His Excellency the Viceroy in Council.

Return of persons made over for trial by the Courts of the Mysore State under Act XXI of 1879, "The Foreign Jurisdiction and Extradition Act."

Year.	District.	No. of cases in which applications were made.	Offences committed.	Remarks.
1887.	Bangalore	1	Section 409, I. P. C.	Only for the half year ending 31st December 1887.
	Kolar	1	Sections 446-380, I. P. C.	
	Tumkur	Nil.	"	
	Mysore	Nil.	"	
	Hassan	Nil.	"	
	Shimoga	2	Sections 457, 380, I. P. C.	
	Chitaldroog	1	Section 379, I. P. C.	
	Kadur	1		
1888.	Bangalore	1	Section 366, I. P. C.	
	Kolar	1	Section 307, I. P. C.	
	Tumkur	Nil.	"	
	Mysore	Nil.	"	
	Hassan	1	Section 381, I. P. C.	
	Shimoga	3	Sections 379, 408, I. P. C.	
	Chitaldroog	1	Section 325, I. P. C.	
	Kadur	1	Section 224, I. P. C.	
1889.	Bangalore	1	Sections 457, 451, I. P. C.	In one case no charge framed.
	Kolar	5	Sections 380, 403, 411, 224, 353, 302, I. P. C.	
	Tumkur	2	Section 324, I. P. C.	
	Mysore	2	Sections 392, 302, 395, I. P. C.	
	Hassan	1	Section 381, I. P. C.	
	Shimoga	1	Section 396, I. P. C.	
	Chitaldroog	1	Section 381, I. P. C.	
	Kadur	2	Section 406, I. P. C.	
1890.	Bangalore	1	Sections 457, 380, I. P. C.	
	Kolar	Nil.	"	
	Tumkur	Nil.	"	
	Mysore	5	Sections 392, 302, 395, 224, 379, I. P. C.	
	Hassan	4	Sections 380, 406, I. P. C.	
	Shimoga	Nil.	"	
	Chitaldroog	Nil.	"	
	Kadur	2	Sections 224, 380, I. P. C.	
1891.	Bangalore	Nil.	"	Only for the half year ending 30th June 1891.
	Kolar	2	Sections 406, 411 I. P. C.	
	Tumkur	Nil.	"	
	Mysore	1	Section 379, I. P. C.	
	Hassan	Nil.	"	
	Shimoga	Nil.	"	
	Chitaldroog	Nil.	"	
	Kadur	1	Section 408, I. P. C.	

No. 28—*D. O. Letter from Colonel J. A. Campbell, Private Secretary to His Highness the Maharaja of Mysore, To Mr. K. Sheshadri Iyer, Dewan of Mysore, dated Mysore, 8th April 1892.*

His Highness last night desired me to tell you what I remembered the Resident to have said at his interview with His Highness about the Railway jurisdiction question.

The Resident had mentioned on the previous day that he wished to take advantage of his being at Mysore, to see His Highness on the subject, and that he would see you on his return to Bangalore.

The Resident first read to His Highness what I understood him to say was a draft of the official letter he was about to send to the Mysore Darbar. He then read out some notes in further explanation of the reasons of the Government of India for adhering to their decision in the matter of Railway jurisdiction. What I remember was as follows :—

The whole question had again been fully considered.

Could not admit the principle that Native States should receive separate consideration in the matter of Criminal jurisdiction in accordance with the efficiency of the Courts of Justice. Government could not accept so much responsibility.

The surrender of offenders arrested on the line of Railway can be regulated according to the procedure followed between the Cantonment and City of Bangalore.

The question of extradition in certain cases (Criminal Breach of Contract for instance) should form the subject of a separate communication.

There would be nothing derogatory in the circumstance of British Officers exercising independent jurisdiction on Railway lines within the Mysore State. Justices of the Peace who are British Officers appointed direct by the Government of India are now exercising such jurisdiction without friction.

It is a mistake to say that in no instance does the Police (and Criminal) jurisdiction of one British Province run into that of another. (Instances given which I did not catch.)

The Dewan argues that Government has pledged itself by a certain letter not to interfere with the Railway jurisdiction. But the broad and important question of Criminal and Police jurisdiction was not on that occasion being discussed—only regulations regarding the convenience and the safety of passengers and goods.

No, 29—*Letter from General Sir Harry Prendergast, Resident in Mysore, To Mr. K. Sheshadri Iyer, Dewan of Mysore, No. 1142—479-8, dated Bangalore, 9th April 1892.*

With reference to correspondence ending with your letter No. 7, dated the 24th August 1891, I have the honor to state that the Government of India thank the Maharaja for the loyal assurance contained in the 2nd paragraph of your letter of 24th August 1891, and that after giving the matter the most attentive consideration they feel unable to make an exception in favor of Mysore in this matter. The principle which requires a cession of Railway jurisdiction in all cases, except on isolated local lines, is a principle from which the Government cannot depart. The inconveniences which must follow an attempt to apportion Railway jurisdiction in different States according to the comparative efficiency of the State Administration are too great and obvious to be undertaken. The Government of India willingly admit that if any State in India could be exceptionally treated without grave inconvenience, they would be disposed to look with favor on the request of the Maharaja of Mysore, but as matters stand, they must decline to reconsider their former decision, and they feel confident that His Highness will now accept that decision with the loyalty and good will of which he has given so many proofs.

Proceedings of the Chief Commissioner of Mysore, Judicial Department, 23rd July 1878

From the Under-Secretary to the Government of India, Foreign Department, to the Chief Commissioner of Mysore – Judicial – No. 84 J dated Simla, the 25th June 1878.

I am directed to acknowledge the letter No. 6628 – J. 89, dated 8th October 1877. from your office – 11283 – J 183, dated 21st march 1878. marginally noted – 815 – J. 11, dated 4th May 1878. and to convey to you the instructions of the Government of India upon the question of reciprocity in regard to civil and criminal processes between the Courts of Mysore and those of British India

2. On the 20th September 1877, your predecessor was informed by a letter from this office that the Planters Association of Wynad had presented to His Excellency the Viceroy a memorial complaining of the loss and in-

convenience

inconvenience caused to their industry by the formalities then attendant upon the extradition of criminals from Mysore to the Wynad. To remove these formalities, your predecessor was instructed to issue an executive order directing that the processes issued by Wynad Criminal Courts, and claims for the surrender of accused persons to Wynad Magistrates, should be treated and respected by the Magistrates and Police of Mysore, as if such processes had been issued, or such claims had been made, by Magistrates of a neighbouring Mysore District. Mr Saunders was at the same time informed that the Governor General in Council was prepared to take up the question of reciprocity in regard to civil processes also. And it was added that if, after consultation with the Judicial Commissioner, Mr Saunders should see fit to make any representation or recommendation on the subject of this letter,

letter, his views would be fully considered by the Government of India

3. On the 8th October Mr. Saunders reported that, in compliance with the instructions of Government, he had issued the executive order above mentioned. He added that the question of reciprocal action in the matter of civil processes would be considered and reported upon in consultation with the Judicial Commissioner

4. On the 21st March, Mr. Saunders submitted the promised report which however was not confined to the subject of civil processes but dealt with the general question of reciprocity between the Courts of Mysore and British India. Enclosed in the report was a letter from the Judicial Commissioner giving his opinion on this question. Mr. Sandford thought that an executive order of Government would suffice to make the processes of British Courts respected in Mysore, but that legislative action would be necessary to

to obtain reciprocal treatment for Mysore processes in British Territory. And he doubted whether it would be equitable to enforce respect to the processes of British Courts in Mysore so long as reciprocity did not exist. Upon this opinion, your predecessor observed that the necessity for legislation in order to obtain reciprocity seemed to be indisputable, but with regard to the doubt expressed by Mr. Sandford's he inferred from the analogous case of the Central Provinces and Berar that no serious difficulty would arise in establishing a system of complete reciprocity. Mr. Saunders forwarded at the same time copy of a letter from the Government of Madras requesting that the Nilgiris District might be admitted to the benefits of the executive order lately issued in regard to the Royal Courts. He saw no reason for refusing this concession and suggested that it might be extended to all Districts of the Madras and Bombay Presidencies lying contiguous to Mysore.

5. On the 4th May, you addressed the Government of India in continuation, forwarding copy of a memorandum upon the question at issue which had been submitted by yourself when holding the appointment of Judicial Commissioner. In this memorandum it was recommended that complete reciprocity in the matter of criminal processes should be established between the Districts of Mysore, Coorg, Wynad, and the Nilgiris. For the rest of British India it was proposed that a definite list of offences should be drawn up, and that mutual surrender should be made in regard to such offences only. This arrangement you thought could be effected without legislation by the exercise of the ~~author~~ authority vested in the Government of India under the last clause of section 11 of the Extradition Act XI of 1872, the second schedule of the Act being somewhat enlarged. You recommended the

the proposal for the acceptance of Government.

6. The Governor General in Council has considered the several opinions and recommendations advanced in the course of the foregoing correspondence, and I am now desired to communicate to you the following observations and orders upon them

7. First, as regards the execution of British processes in Mysore.- The Governor General in Council is of opinion that to enable the Mysore Courts to respect the civil and criminal processes issued by the Courts of British India, nothing more is required than an executive order of Government.

8. In so far as criminal processes of are concerned, an order has already been published to meet the case of processes issued by Magistrates of the Wynad District. It would only be necessary to extend the scope of this order so as to include processes issued by the Magistrates of all Districts in British India

9. At the same time an order might be issued by you directing all Civil Courts in Mysore to respect the civil processes of British Indian Courts as they would respect the civil processes of neighbouring Courts in Mysore

10. The processes of British Courts, both Civil and Criminal, would then be respected in Mysore as they are respected in British Territory There remains the question how far reciprocity can be obtained for the processes of Mysore Courts.

11. On this point I am to say that it is doubtful whether complete reciprocity is attainable without legislative action on the part of Government, and the Governor General in Council considers that under present circumstances it is not desirable to resort to such action. But the provisions of the existing Law already authorize British Indian Courts to take some cognizance of the processes of Civil and Criminal Courts in Mysore, and in the opinion of the Government of India this power is sufficient to prevent any miscarriage of justice.

12 As regards criminal processes the Extradition Act No. XI of 1872 contains the necessary provisions. The Chief Commissioner of Mysore is a Political Agent for the purposes of this Act. Therefore under section 9, any British subject, European or native, who commits an offence in Mysore and then enters British India, may be tried in British India as if the offence had been committed there, if the Chief Commissioner certifies that the charge is one which ought to be enquired into in British India. And as the Chief Commissioner is administering the executive government of a Foreign State, he may apply to the British Government, under section 14 of the Act for the surrender of any person, whether a British subject or not, who is accused of having committed an offence in Mysore. Further if any person not being an European British subject is accused of having committed in Mysore of one of the offences specified in schedule II of the Act, the Chief Commissioner may issue a warrant for his arrest under section 11, and this warrant will be execu-

executed by the Magistrate of any District in British India in which the accused may be found.

13. Assuming, then, that the list of offences specified in schedule II of the Act includes all offences for which the extradition of criminals between different States is thought actually necessary, the provisions of the Act would, in the opinion of the Governor General in Council, be practically effective for the purposes of Law and Police in Impore. It is true that the exact reciprocity contemplated in paragraph 8 of your memorandum above mentioned would not be attained. But the Governor General in Council considers that the slight advantage conferred on British Courts by the difference of procedure is of so material consequence.

14. As regards Civil process, I am directed to draw your attention to section 229 and 434 of the Civil Procedure Code, which provide for the execution in British India of the decrees of Courts situated outside British India, and to section 391 of the same Code, which provides for the execution of commissions issued by such Courts. If these

these Sections of the Civil Procedure Code were supplemented by the issue of an executive order to officers in British India directing the service of Mysore Summ a considerable measure of reciprocity in the matter of civil process would have been obtained for the Mysore Courts.

15 ~~Brief~~ Briefly therefore the procedure to be observed for the future by the Courts of Mysore and British India in regard to the execution of civil and criminal processes would be as follows The processes of British Courts would be respected in Mysore exactly in the same manner as the processes of the Mysore Courts. The processes of Mysore Courts would be respected in British India to the extent and in the manner provided for by Act XI of 1872 and by the Civil Procedure Code, the service of Summons being ensured by executive orders

No 3072 – Judl. 7, Dated Bangalore 23rd July 1878.

Order In accordance with the instructions of the Government of India, conveyed in paras 8 & 9

8 and 9 of the foregoing letter, the Chief Commissioner, resolves to issue the following Notifications for the information and guidance of all Magistrates and Civil Courts in Mysore

Copies of these Proceedings will be communicated to the Madras and Bombay Governments for information; and their attention invited to para 14 of the letter above read from the Government of India

(Sd) T. Clarke.
Secretary.

To
The Judicial Commissioner,
— Inspector General of Police
— Commissioners of Divisions
— Deputy Commissioners of Districts.

Notification

Criminal.

No 111. The 23rd July 1878.

Under the authority of His Excellency the Viceroy and Governor General in Council, the Chief Commissioner directs that all criminal processes of whatsoever description, when issued by any Magistrate having jurisdiction in any District

District of British India shall be acted upon and executed by all Magistrates and Police Officers in Mysore, under the same conditions, and in the same manner as if such process had been issued by a Magistrate having jurisdiction in Mysore

Notification

Civil.

The 23rd July 1878.

No 112. Under the authority of His Excellency the Viceroy and Governor General in Council, the Chief Commissioner declares that —

(1) All decrees of any Court established in British India which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in the manner provided by sections 223-228 of the Code of Civil Procedure within the jurisdiction of any Court in Mysore.

(2) That all processes of whatsoever description issued by any Civil Court in British India may be acted upon and executed by all Courts in Mysore, as if such process had been

been issued by a Court having juris-

diction in Impose

"Copy"

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Proceedings of the Chief Commissioner of Mysore, Judicial Department, 23rd July 1878.

From the Under-Secretary to the Government of India, Foreign Department, To the Chief Commissioner of Mysore—Judicial—No. 84 J., dated Simla, the 25th June 1878.

I am directed to acknowledge the letters from your office marginally noted, and to convey to you the instructions of the Government of India upon the question of reciprocity in regard to civil and criminal processes between the Courts of Mysore and those of British India.

o. 6628—J. 89, dated 8th October 1877.
11233—J. 183, dated 21st March 1878.
815—J. 11, dated 4th May 1878.

2. On the 20th September 1877, your predecessor was informed by a letter from this office that the Planters' Association of Wynad had presented to His Excellency the Viceroy a memorial complaining of the loss and inconvenience caused to their industry by the formalities then attendant upon the extradition of criminals from Mysore to the Wynad. To remove these formalities, your predecessor was instructed to issue an executive order directing that the processes issued by Wynad Criminal Courts, and claims for the surrender of accused persons to Wynad Magistrates, should be treated and respected by the Magistrates and Police of Mysore as if such processes had been issued, or such claims had been made, by Magistrates of a neighbouring Mysore District. Mr. Saunders was at the same time informed that the Governor General in Council was prepared to take up the question of reciprocity in regard to civil processes also. And it was added that if, after consultation with the Judicial Commissioner, Mr. Saunders should see fit to make any representation or recommendation on the subject of this letter, his views would be fully considered by the Government of India.

3. On the 8th October Mr. Saunders reported that, in compliance with the instructions of Government, he had issued the executive order abovementioned. He added that the question of reciprocal action in the matter of civil processes would be considered and reported upon in consultation with the Judicial Commissioner.

4. On the 21st March, Mr. Saunders submitted the promised report, which however was not confined to the subject of civil processes, but dealt with the general question of reciprocity between the Courts of Mysore and British India. Enclosed in the report was a letter from the Judicial Commissioner giving his opinion on this question. Mr. Sandford thought that an executive order of Government would suffice to make the processes of British Courts respected in Mysore, but that legislative action would be necessary to obtain reciprocal treatment for Mysore processes in British Territory. And he doubted whether it would be equitable to enforce respect to the processes of British Courts in Mysore so long as reciprocity did not exist. Upon this opinion, your predecessor observed that the necessity for legislation in order to obtain reciprocity seemed to be indisputable, but with regard to the doubt expressed by Mr. Sandford, he inferred from the analogous case of the Central Provinces and Berar that no serious difficulty would arise in establishing a system of complete reciprocity. Mr. Saunders forwarded at the same time copy of a letter from the Government of Madras requesting that the Niigiri District might be admitted to the benefits of the executive order lately issued in regard to the Wynad Courts. He saw no reason for refusing this concession and suggested that it might be extended to all Districts of the Madras and Bombay Presidencies lying contiguous to Mysore.

5. On the 4th May, you addressed the Government of India in continuation, forwarding copy of a memorandum upon the question at issue which had been submitted by yourself when holding the appointment of Judicial Commissioner. In this memorandum it was recommended that complete reciprocity in the matter of criminal processes should be established between the Districts of Mysore, Coorg, Wynad, and the Nilgiris. For the rest of British India it was proposed that a definite list of offences should be drawn up, and that mutual surrender should be made in regard to such offences only. This arrangement you thought could be effected without legislation by the exercise of the authority vested in the Government of India under the last clause of section 11 of the Extradition Act XI of 1872, the second schedule of the Act being somewhat enlarged. You recommended the proposal for the acceptance of Government.

6. The Governor General in Council has considered the several opinions and recommendations advanced in the course of the foregoing correspondence, and I am now desired to communicate to you the following observations and orders upon them.

7. First, as regards the execution of British processes in Mysore.—The Governor General in Council is of opinion that to enable the Mysore Courts to respect the civil and criminal proceedings issued by the Courts of British India, nothing more is required than an executive order of Government.

8. In so far as criminal processes are concerned, an order has already been published to the case of processes issued by Magistrates of the Wynad District. It would only be necessary to extend the scope of this order so as to include processes issued by the Magistrates of all Districts in British India.

9. At the same time an order might be issued by you directing all Civil Courts in Mysore to respect the civil processes of British Indian Courts as they would respect the civil processes of neighbouring Courts in Mysore.

10. The processes of British Courts, both Civil and Criminal, would then be respected in Mysore as they are respected in British Territory. There remains the question how far reciprocity can be obtained for the processes of Mysore Courts.

11. On this point I am to say that it is doubtful whether complete reciprocity is attainable without legislative action on the part of Government, and the Governor General in Council considers that under present circumstances it is not desirable to resort to such action. But the provisions of the existing Law already authorize British Indian Courts to take some cognizance of the processes of Civil and Criminal Courts in Mysore, and in the opinion of the Government of India this power is sufficient to prevent any serious miscarriage of justice.

12. As regards criminal processes, the Extradition Act No. XI of 1872 contains the necessary provisions. The Chief Commissioner of Mysore is a Political Agent for the purposes of this Act. Therefore under section 9, any British subject, European or Native, who commits an offence in Mysore and then enters British India, may be tried in British India as if the offence had been committed there, if the Chief Commissioner certifies that the charge is one which ought to be enquired into in British India. And as the Chief Commissioner is administering the executive government of a Foreign State, he may apply to the British Government under section 14 of the Act for the surrender of any person, whether a British subject or not, who is accused of having committed an offence in Mysore. Further if any person not being an European British subject is accused of having committed in Mysore one of the offences specified in schedule II of the Act, the Chief Commissioner may issue a warrant for his arrest under section 11, and this warrant will be executed by the Magistrate of any District in British India in which the accused may be found.

13. Assuming, then, that the list of offences specified in schedule II of the Act includes all offences for which the extradition of criminals between different States is thought actually necessary, the provisions of the Act would, in the opinion of the Governor General in Council, be practically effective for the purposes of Law and Police in Mysore. It is true that the exact reciprocity contemplated paragraph 8 of your memorandum above mentioned would not be attained. But the Governor General in Council considers that the slight advantage conferred on British Courts by the difference of procedure is of no material consequence.

14. As regards civil process, I am directed to draw your attention to sections 229 and 434 of the Civil Procedure Code, which provide for the execution in British India of the decrees of Courts situated outside British India, and to section 391 of the same Code, which provides for the execution of commissions issued by such Courts. If these Sections of the Civil Procedure Code were supplemented by the issue of an executive order to officers in British India directing the service of Mysore summons, a considerable measure of reciprocity in the matter of civil process would have been obtained for the Mysore Courts.

15. Briefly therefore the procedure to be observed for the future by the Courts of Mysore and British India in regard to the execution of civil and criminal processes would be as follows: The processes of British Courts would be respected in Mysore exactly in the same manner as the processes of Mysore Courts. The processes of Mysore Courts would be respected in British India to the extent and in the manner provided for by Act XI of 1872 and by the Civil Procedure Code, the service of summons being ensured by executive orders.

No. 3072—JUDL. 7, DATED BANGALORE, 23RD JULY 1878.

ORDER.—In accordance with the instructions of the Government of India, conveyed in paras 8 and 9 of the foregoing letter, the Chief Commissioner resolves to issue the following Notifications for the information and guidance of all Magistrates and Civil Courts in Mysore.

Proceedings of the Chief Commissioner of Mysore, Judicial Department,
23rd July 1878.

Copies of these Proceedings will be communicated to the Madras and Bombay Governments for information ; and their attention invited to para 14 of the letter above read from the Government of India.

T. CLARKE,
Secretary.

To—The Judicial Commissioner.
" Inspector General of Police.
" Commissioners of Divisions.
" Deputy Commissioners of Districts.

NOTIFICATION.

CRIMINAL.

No. 111. *The 23rd July* 1878.

Under the authority of His Excellency the Viceroy and Governor General in Council, the Chief Commissioner directs that all criminal processes of whatsoever description, when issued by any Magistrate having jurisdiction in any District of British India, shall be acted upon and executed by all Magistrates and Police Officers in Mysore, under the same conditions, and in the same manner, as if such process had been issued by a Magistrate having jurisdiction in Mysore.

NOTIFICATION.

CIVIL

No. 112. *The 23rd July* 1878.

Under the authority of His Excellency the Viceroy and Governor General in Council, the Chief Commissioner declares th

(1) All decrees of any Court established in British India which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in the manner provided by sections 223 to 228 of the Code of Civil Procedure within the jurisdiction of any Court in Mysore.

(2) That all processes of whatsoever description issued by any Civil Court in British India, may be acted upon and executed by all Courts in Mysore, as if such process had been issued by a Court having jurisdiction in Mysore.

First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th November, 1879, and is hereby promulgated for general information.

ACT No. XX OF 1879

An Act to provide for the better prevention of Glanders and Farcy among Horses.

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Glanders and Farcy Act, 1879"

Short title.

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal

Local extent.

and it shall come into force at once.

Commencement.

2. In this Act, unless there is something repugnant in the subject or context,

Interpretation-clause.

"horse" includes also ponies, asses, mules and jennets:

horse.

"diseased" means affected with glanders or farcy

diseased.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government may apply the Act.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Local Government to appoint Inspectors.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Inspector's power to seize horse.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Power of entry and search given to Inspectors.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be examined by Veterinary Surgeon.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

Horse to be destroyed if found diseased;

otherwise restored.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

When horse diseased, place where it has been to be disinfected, &c.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Prohibition against removal, without license, of horse which has been with diseased horse.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased; shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Vexatious entries, searches and seizures.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Any person who refuses or neglects, to comply with any notice issued by the Inspector under section nine, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for refusing to comply with notice under section 9;

or moving horse contrary to section 11.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

Power to make rules.

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

Validation of destruction of diseased horses previous to passing of this Act.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th November, 1879, and is hereby promulgated for general information:—

ACT No. XXI OF 1879.

THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.

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An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Preamble.

WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas, doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879"

Extent.

It extends to the whole of British India

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

Saving of other laws and of treaties.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Repeal.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued, under that Act shall, in so far as they are consistent herewith, be

deemed to have been respectively made and issued hereunder.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Political Agent."

"Political Agent" means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India: and

"European British subject."

"European British subject" means a European British subject as defined in the Code of Criminal Procedure.

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

Exercise of powers of Governor General in places beyond British India, and delegation thereof.

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

Notification of exercise, or delegation of such powers.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Appointment, powers and jurisdiction of Justices of the Peace

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, ~~in any such country or place~~ to be a Justice of the Peace, and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

in or for any such country or place

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

Confirmation of existing Political Agents and Justices.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Extension of criminal law of British India to British subjects out of British India.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

(*a*) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(*b*) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

Liability of British subjects for offences committed out of British India.

9. When a European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agent to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be such, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar against further proceedings against him under this Act in respect of the same offence at any place beyond the limits of British India.

Power to direct copies of depositions and exhibits to be received in evidence.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

CHAPTER IV.

EXTRADITION.

Arrest and removal of persons other than European British subjects escaping into British India.

11. When an offence has been committed or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes

into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant-

if such Political Agent thinks that the offence is one which ought to be inquired into in such State;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code, mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the *Gazette of India*.

Direction and execution of warrant.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

13. Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

Requisitions for extradition by the Executive of any part of British dominions or Foreign power.

14. Whenever a requisition is made to the Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall enquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

15. Whenever any person accused or suspected of having committed an offence out of British India within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Magistrate to inform Political Agent or Local Government.

Person arrested to be released after certain time if not proceeded against.

16. No person arrested on a warrant issued by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

Bail.

17 The provisions of the Code of Criminal Procedure in respect of bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

CHAPTER V.

MISCELLANEOUS.

Power to make rules.

18. The Governor General in Council may from time to time, make rules to provide for—

(1) the connnement, diet and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act and their control and maintenance until such

time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

Execution of commissions issued by Foreign Criminal Courts.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION SEVEN.

Sections 207, 208 and 224; sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 465, both inclusive; sections 471 to 477, both inclusive.

D. FITZPATRICK,

Secy. to the Govt. of India,

Legislative Department.

(5)

Bangalore
31st June/92

My dear Dewan

The Resident has noticed the enclosed extract from which you will see that the question of Extradition Law between Mysore and British Government has been brought up in the House

Please refer to this office letter No. 1167 & 12a 479-8

April 1892 Col Henderson desired me to say he hopes the subject is being considered and that you will be able to reply to our letter at an early date

Please return the extract

Yours sincerely

(signed) C. W. Ravenshaw

Sir K. Sheshadri Iyer Esqr
C. S. I.

Madras Mail June 21-92

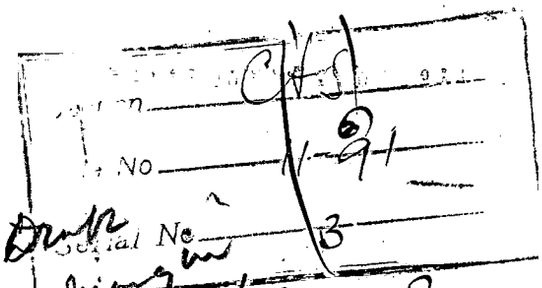
Tuesday, May 31.

Mysore.—Lord Dunsany asked the Under Secretary for India whether the attention of the India Office had been drawn to the fact that British and Native interests in Mysore were hampered and injured by the extradition laws, which prevented Mysore warrants from running in British territory (though warrants from British territory run in Mysore), whereby employers of labour in Mysore were liable to be defrauded and injured in their business by labourers and contractors for the supply of labour, who had received advances on account, absconding into British territory; and whether any steps were in contemplation to remedy the grievance complained of.

Mr. Curzon replied that the whole question of extradition in British territory was carefully considered in 1878. The Secretary of State had received no recent communications on the subject, but the question of the noble lord would be sent to India in the ordinary course, and would call attention to the matter. The Indian Extradition Act of 1879 did not prevent Mysore warrants from running in British territory, though the intervention of a Magistrate was required before they could be issued.

512

for the Mysore



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Ques

H S

Have fair Draft
made on half sheet

13.7.92

Fair draft
Submd HC

To The Resident in Mysore

I have his honor to acknowledge
his receipt of Gr. Letter No. 1167
dated 12th April last and with reference
thereto to invite your attention to
~~Secretts No. 8 dated the 28th Augt.~~
~~last to the address of Lt Harvey Penfe-~~
~~ther, in para 3 of which suggested~~
~~that the scope of the Extradition Act~~
~~might be extended to offences~~
~~falling under the Breach of Contract~~
~~Act 13 of 1864. under~~
~~the last clause of Sec: 11 of the Extradition Act 15~~
1879, the Govt. of India in Council may
~~by Notification in the Gazette of India declare~~
~~the~~ Act 13 of 1864 a law
for the Violation of which a warrant
may be issued under that section
~~this Act should become unfavourable~~
~~ment upon the Egyptian state~~
~~of Laws under which the Prisoner~~

S 11 of the Foreign Jurisdiction & Extradition Act 1879, under the last clause of which, the Scope of the Schedule to the Act annexed can be enlarged by an Executive order Notification of the Governor General in Council, without resort to Legislative action for the purpose by a mere Executive Notn of the Governor Genl in Council declaring

(by the Political Agent under that Section - If such a Notn is issued

the
Coffee planters and Gold Miners,
in Mysore who now are practically without a remedy
when defaulting Contractors escape
into British India — but in such
cases Optium this, will be a long
inadequate remedy. What is of
paramount importance to them is
a speedy arrest of the fraudulent
defaulter and a reasonably quick
decision of a Mag.te directing
him either to perform his work
repay his Money advanced: and
it is not difficult to conceive
Cases in which delay may for some
-times entail almost irreparable
loss

The dispatch that is necessary
needed to effectually meet this
requirement cannot be secured
if the necessarily dilatory pro
-cedure of the Extradition Act
not wishing to trouble Your
India with a recapitulation of the
earlier Communications in which
his Successive Govts Mysore & Sir
Mysore Mr. Saunders and Sir
James Gordon both of whom had
personally filled the Office of Govt.

in Mysore who
Govt be able to cause the defaulter
them to be arrested &
brought before a Mysore
Mag.te and that this

2. This will be a great
improvement upon the
present State of things, but
in the humble opinion
of the Govt it will not afford
but a very inadequate
remedy to the Evils
under which the Planters &
Miners in Mysore
labor

3.

for general

Comm.rs of Mysore and Mr. Sandford,
request upon the former of Judicial
Question of reciprocity between
Mysore and British India as regards
Civil and Criminal processes, I beg
respectfully to refer to the decision
arrived at by the former Govt. of India,
as communicated in letter No. 84. of
dated 25th June 1878 from the
Under-Secy. Foreign Department
to the late Chief Comm.r of Mysore.
After directing your attention
under of the former Govt. in Council
that the processes of British India
both Civil and Criminal should be
respected in Mysore as they are respected
in British Territory, the letter states
the following as regards reciprocity
for the Mysore processes —
It is doubtful whether complete
reciprocity is attainable without
legislative action on the part of Portu-
and the former Govt. in Council consider,
that under present circumstances
it is not desirable to resort
to such action.

4

I have fully explained in para 6 of my letter of the 28th. inst. last, the great changes that have taken place in the Constitution of Mysore since 1878, which ~~appear~~ warrant the Durbar in repeating the request which the late Chief Commr. had urged in 1877 and 1878: and ~~it appears probable from the tenor~~ ~~of your letter under acknowledgment~~ ~~that the Govt. of India are con-~~ ~~-templating some changes in~~ the Extradition law, I beg now ~~to~~ respectfully to submit ~~that the Govt. of~~ India may not ~~consider~~ ~~this~~ a favourable occasion for meeting the wishes of the Durbar -

That the Govt of India may on the present occasion be pleased to take such legislative action as will allow of Mysore Crim[l]. Process being executed in British India in the same manner as if such processes had been issued by Courts in British India - A simple provision somewhat in the terms of the Enclosure be introduced in the Criminal Pro: Code, it will be in the power of the Govt. for the time being to extend its provisions to Mysore -

- will be the only change of law required. It will not be a novel or inconvenient provision,

any British State of Madagascar
in Judicial communication in
accordance with the British Indian
Extradition
as the Madagascar provision Regulations
in Sec: 434 of the Criminal Pro: Code
of 1882, and has been

[redacted]

[redacted]

worked with much
public benefit - with the
proposed addn to the
Crim: Pro: Code as proposed
above to will be contained
in the Executive Order to the
Foreign Jurisdiction Consular
to include documents
executed of who alone be
required to secure for
Foreign Crim: Process
due execution within
British India in the
same manner in which
British Crim: Process are now executed in
Foreign Countries under the Order of 1878 —

13.7.92

Office of the Dewan of Mysore
Dated Camp Mysore, 20th July 1892

To (6)

The Resident
in Mysore

No. 17

Sir

I have the honor to acknowledge the receipt of your letter No 1167/479-8 dated 12th April last, and in reference thereto to invite your attention to Section 11 of the Foreign Jurisdiction and Extradition Act, 1879; under the last clause of which the Scope of the Schedule annexed to the Act can be enlarged without resort to Legislative action by a mere executive notification of the Governor General in Council declaring Act 13 of 1859 to be a law for

Final Draft
Subd for orders
15/7/92

20/7/92

Section C 1
No 11-91
Serial No 3

Vaidy

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for the violation of which a warrant may be issued by the Political Agent under that Section. If such a notification is issued, the Coffee Planters and Gold Miners in Mysore who now are practically without a remedy when defaulting Contractors escape into British India will be able to cause the defaulters to be arrested and brought before a Mysore Magistrate.

2 This will be a great improvement upon the present state of things, but in the humble opinion of the

the Dunbar it will
afford but a very
inadequate remedy
to the evil under which
the plumbers and miners
in Bygone labor. What
is of paramount
importance to them
is a speedy arrest of
the fraudulent de-
faulter and a reason-
ably quick decision
of a Magistrate —
directing him either
to perform his work
or repay the money
advanced: and it is
not difficult to con-
ceive ~~the~~ cases in which
delay may sometimes
entail almost ir-
-reparable loss the
dispatch that is need-
-ed to effectually
meet

their requirements cannot be secured by the necessarily - dilatory procedure of the Extradition Act

3. Not wishing to trouble the Government of India with a re- -capitulation of the earlier communi- -cations in which two successive Chief Commissioners of Mysore, Mr. Saunders and Sir James Gordon, both of whom had previously filled the office of Judicial Commissioner of Mysore and Mr. Sandford, for several years the Judicial Commis- -sioner, pressed upon the

the Government of India
the question of reci-
procity between
Mysore and British
India as regards
Civil and Criminal
processes, I beg respect-
fully to refer to the
decision arrived at
by the Government of
India, as communi-
cated in letter No. 84 J
dated 25th June 1878
from the Under Secretary
Foreign Department, to
the late Chief Commis-
sioners of Mysore. After
directing by an execu-
tive order of the Gover-
nor General in Council
that the processes of
British India both
Civil and Criminal,
should

(2)

should be respected
in Bryore as they are
respected in British
Territory; the letter
states the following
as regards reci-
procity for the
Bryore Processes —
" It is doubtful
" whether complete
" reciprocity is ob-
" tainable without
" legislative action
" on the part of ~~the~~
" Government and the
" Governor General in
" Council considers
" that under present
" circumstances it
" is not desirable to
" resort to such actions.
4. I have fully ex-
plained in para 6
of

of my letter of the 28
August last to your
predecessor, the great
Changes that have taken
place in the condition
of Mysore since 1878
which warrant the
Durbar in repeating
the request which the
late Chief Commissioner
had urged in 1877 and
1878 and I beg now
prominently to submit
that the Government of
India may on the present
occasion be pleased
to take such Legislative
action as will allow
of Mysore Criminal
Processes being exe-
cuted in British India
in the same manner
as of such processes
had

had been issued by
Courts in British India.
A simple provision,
somewhat in the terms
of the enclosure, —
introduced in the
Criminal Procedure
Code will be the only
change of law required.
It will not be a novel
or inconvenient provi-
-vision as an ana-
-logous provision as regards civil decrees
exists in Section 434
of the Civil Procedure
Code of 1882, and has
been worked with
much public benefit
With the addition to
the Criminal Pro-
-cedure Code of a
Section as proposed
above, an Executive
Notification

Notification by the
Governor General in
Council will alone be
required to secure
for Nepal Criminal
Processes due exe-
-cution within British
India in the same
manner as ~~as which~~
British Criminal -
Processes are now
executed in Nepal
under the orders of 1878

I have &c

15/7/92

Dewan

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a

Enclosure

Notwithstanding anything contained in Section 11 of the Extradition Act XXI of 1879 the Governor General in Council may, from time to time by notification in the Gazette of India

(a) declare that the processes of any Criminal Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor-General in Council, may be executed in British India, as if they had been issued by the Courts of British India

on

and

(b) Cancel any such declaration so long as such declaration remains in force, ~~the said process may be executed accordingly~~ Criminal process issued by a ~~Native~~ the Courts the territories of the Native Prince or State specified in such declaration shall be executed in British India as if the same had been issued by the Courts of British India.

Dewan

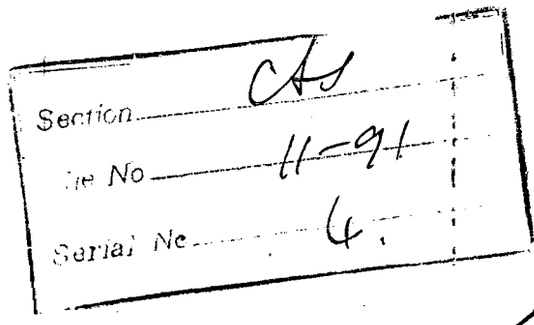
(X)

(7)

No 6513 dated 29-9 93
Genl 1502

To

G. L. Gonge Esqre
Secretary to the
Planters Conference
Parry's Buildings, Secondline Beach
Madras



Sir,

I am directed to acknowledge ~~the receipt of~~ your letter ~~dated~~ of the 22nd instant forwarding for the information of the Govt of H. H. the Maharaja of Mysore, copy of a letter addressed by the Conference to the Government of India on the subject of extradition

I have &c

Chief Secretary

+ Not received in this Dept

(General Serial No. 30.) 4826

1893/94 Q 1806

From The 1st Asst to the Resident in Mysore

To

(8)

Dated 6th October 1893

Despatched

Received

Enclosures No.

General No. 3462

No. 216.92

I forwarding that the Secretary to the Conference of the Planting Associations of S. India transmitted copy of letter addressed to the Govt of Madras in re the exclusion of Act XIII of 1859 from the provisions of Extradition and that a copy of the letter has been sent to the Durbar and enquiring whether the Durbar propose to address the Resident on the subject.

Submitted

Dy Secy to Govt Mysore 7/10

Secretary 8/10

The Secretary to Government of Mysore in the Revenue Department

---

Subject Q.S.

We had sent a reply & Residency on this subject as far back as June /92 The whole file was sent to Mr. S. R. Subbarayan some months ago We be obliged for its early return to enable a reply being sent to this letter

11/10/93

Govt Branch

Refer, today MSR 13/10

Sir,

No references in connection with this are in the Judicial Branch Breach of Contract Petition file as put up.

21/10/93

Read 22/10/93

Section C+L

No 11-91

5

No. 3442
21692

8

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore

Dated Bangalore, 6 October 1893.

SIR,

I am directed to inform you that the Secretary to the Conference of the Planting Associations of Southern India has forwarded to the Resident a copy of a letter dated the 21st September 1893 addressed to the Government of Madras regarding the exclusion of Act XIII of 1859 from the provisions of Extradition, and stated that a copy of that letter has been sent to the Durbar

2 I am to enquire whether the Durbar propose to address the Resident on

Ofca - Madras Office
December 20th 1893

Sir K: Seshagiri Ayer K: C: S:
Jeweu of Travancore
Trivandrum

Sir

In accordance with your suggestion as made at the recent Conference between yourself, the Legal advisers of the Travancore Government, and the Planters delegates to the recent Planters Assembly - I have now the honor to inform you that I have received copies of agreements & replies from the several leading Planting Associations in the Madras Presidency. - I enclose the copies obtained. -

The Nilgiri Association informs us that they have no special form of agreement in general use. - I enclose copy of the Wynaad Association agreement. Also forward two copies of agreement in use in the Anaikoolum Valley which agreements I believe were drafted by Messrs Barclay and Morgan

Also a copy of the Coorg agreement. - In many planters in Coorg lay stress on the clause to the effect that the Landlord or Coolie afforded is it under advance to the Estate & subsequently it was found they were under advance elsewhere, & failed to fulfil the contract the clause was proved extent at the time of receipt of advance - & Cheat or Defraud. - As explained at the Conference one of our great difficulties is to prevent the system of taking double advances. - As the law stands the point of proof - Cheat or Defraud - but with the prosecution who must prove intent at time of receipt of the money - Cheat. - This is very difficult. - Further legal decisions favor the Coolie or Landlord - as if he has been enticed he can work out one advance & turn the other estate advance. - But in practice it is found that it impossible for the Coolie can escape under the "Limit of Time" subsidy. -

The subsidy as the actual subsistence money given to a Coolie on the estate is actually Indebtedness money so given constituting a running account

explained to you.—
Also the ruling that the Planter is barred from
any claim to proceed under Act XIII if he
has allowed the Cooly to leave his Estate before
the advance was worked off even though the
man may be seriously ill necessitating change.—
I sincerely trust that you will as
suggested be able to draft a form of
agreement obligatory for Mysore— & while
being legal may overcome the rulings now
so contrary & oppressive on the Planter.—
As to your suggestion regarding the
Amendment of Act XIII applicable to Mysore:
I reported the result of our Conference to
the President— he entirely supports the suggestion
The Planters in Mysore have a strong claim
for support from His Highness Government
we work under exceptional difficulties— the
Supreme Government refuse to make reciprocal
the advantages as to Extradition &c they freely
enforce on Mysore in favor of Planters within
British Territory, and I would draw your
special attention to the establishment recently

system [illegible] of a Planters Agent. I believe
his name is Mr. Wilkins— whose sole business
it is to trace & arrest coolies for Planters within
British territory— & who armed with such
Extradition warrant can even follow up &
remove coolies from our estates to whom we
had advanced in all good faith.—
Hence in our difficulties we apply to His
Highness Government for some assistance
& help in [illegible]ing this Act XIII being [illegible]
We have [illegible] [illegible]ested we ask for
nothing but [illegible] [illegible]an & [illegible]
oppression. Slavery are words which we trust
may no longer be used agst us as a community
they are [illegible] opposed to facts— & when used
by officials [illegible] a culpable ignorance of
the real [illegible] of the Case.—
We earnestly appeal to you Sir to take action
in the matter for things are getting worse
yearly— prompt action to check fraud is
very urg[illegible]

I have the honor to be
Sir Your Obedient Servant
Digby: [illegible] Presd
[illegible] President
South Mysore Planters' As[illegible]

(10)

VC.

30 December 1893

To,

Sir V. Sheshadri Iyer K.C.S.I

Dewan of Mysore

Sir

Section C+1
No 11-91
Letter No 7

On behalf of the Members of the South Mysore Planters Association we have the honor to welcoming you to the Mulnad to avail ourselves of the opportunity of most respectfully wishing you all the choicest compliments of the season.

Deeply interested as we are in the welfare of this District we cannot but regard with the greatest possible satisfaction your visit to Munzerabad, Belur & Hudgere; as we feel assured that during your tour you will closely study the special requirements

SOUTH MYSORE PLANTERS ASSOCIATION, MUNZERABAD.

of the Mulnad and mature your
views relative to the future action of
Government in dealing with those
subjects which have been brought to
notice of the Representative Assembly

We cordially join in thanking you
for so kindly granting us an interview
and well knowing the many demands
which will be made on your time &
attention, we feel that it will be
unnecessary to do more than make
a few brief allusions to those matters
which have already been most fully
represented

In obedience to your special request
we have the honor to place you in
possession of copies of the form
agreement in use in Coorg for the
engagement of Mistries &c &c.

We most gratefully acknowledge your
Promises in promising to accord full
& sympathetic consideration to the whole
Subject of advances to employers on
Coffee & other Estates in this Province
and we earnestly hope that the
Government of Mysore will after the
fullest & most searching inquiry, be
able either to emphatically support
the equitable representations made by
the United Associations of Southern India
relative to the urgent necessity for
suitably amending the laws relating
to fraudulent breaches of contract &
tradition, or will make such
arraignments as in its good
judgment it may consider effectual-
meet the exigencies of the situation
We have the honor to solicit the
favor of a definite reply relative to the

Sir,

Your most obedient Servants

Gra: Anderson President

H.J. Anderson

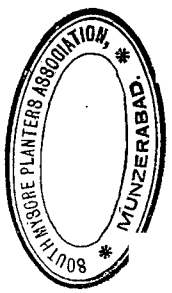
A.R. Park

J. Ford

Brooke Hockett

H.O. Crawford

Hon. Sec.



Mohan Bhavan
Ballia, Hassan,
14 January 1894

(11)

Section C.A.S.
File No 11-9-1
Serial No 8.

To
The C. Shahadri Iyer M.A. B.L.
Dewan of Mysore,
Bangalore,

Sir

I have the honor to submit a copy of resolutions passed at an extraordinary general meeting of this Association held at Balclapur on the 10th, for your information.

I have the honor, to be
Sir,
Your Most Obedient Servant,
J.D. Crawford
Hon. Sec.

With reference to the enquiries regarding the omission of the words "subsist the same remains unsatisfied" it was resolved as follows:

It appeared to the Conference extremely desirable to make the law clear & intelligible on the difficult point indicated by the Hon'ble the Secretary to the Government of Madras

With reference to the objection of the words advance, the following resolution was recorded.

Money & expenditure being the characteristics of the labouring pecuniary, and as the money demanded is specially required to conduct the recipient a few days and during which they is a prepayment of wages, or other charges for the collection of material, implements &c. to be utilized during the performance of the contract, it is essentially necessary that the word "advance" be understood to mean "Earnest Money" or "Consideration" and that

A. Braun defines

left for Calcutta

Submitted

21/18/1/45

Mr. S.N. Nanavaty

Agent

Please let me have the papers of M/s [illegible] Jamsetjee Agreement under Act XII of 1859 has nothing to do with Charter Deed so the matter

therewith

18/1/45

Submitted

This file with letters was given to me by Mr. Narain Rao for submission to the Dewan & under H.E's orders I sent the form of agreement to the Legislative Secy 21/1/45

Swaminathan Murder

The Chief Secy wants to know where Mr Digby Bretts letter forwarding forms of Agreement under the Breach of Contract Act is If ~~xxxx~~ in the D&O please send it over him

Mrs
18/1/95

Sir

The reference is not in the D & O It may be with the file ending with Residency letter No 3441/216-92 26-10-93 regarding the exclusion of Act XIII of 1859 from the provisions of the Extradition Act, pursuant to Mr S. N. Ramaswamy enquiry before the Dewan Bahadur

such supervision should form regular part through the Act as introduced by Mr. Gough

Extraction

Relating to extraction the following resolution was agreed to unanimously, That the Association would cordially welcome the concession indicated by the Govt. of Madras in the Chief Secretary's letter to the Govt. of India dated 10th August 1892 relative to the execution of Bailable Warrants in British Territory & earnestly hope that the Legislature Government may see its way to recommend its introduction.

Bailable warrants

In regard to the registration of Midwives it was resolved:

Compulsory Registration Midwives under certain provisions & restrictions

That the Association fully recognises the important results calculated to accrue from the introduction of the system of compulsory registration of Midwives also is quite prepared for the introduction of such reasonable restrictions and provisions as the Government of Madras may deem necessary.

With reference to the proposal for a deputation to wait on His Excellency the Viceroy it was resolved as follows.

Bp^s. to the Viceroy

That this Association is prepared to support Mr. Butt's proposal and to subscribe its full share of the expenses of a deputation provided that it is understood that such deputation shall be permitted to fully express its views and to advance such arguments as may be found necessary for a better understanding of our requirements.

That this Association would suggest that the deputation should consist of [illegible] members

H. T. Crawford
Hon. Sec.

Will you allow me to suggest that measures should at once be taken to test the road system of the country may be adapted to the purpose. As a member of the County Council at home I have been made stand with the loss of public money, and the inconvenience caused from the want of timely steps. When a line is made some roads formerly required as first class road need have little spent on them & their roadway should be narrowed (others to macadamized be widened & turned into first class roads. A heavy traffic for instance will spring up on the road between Salkeepur and Moodpore, & steps should be taken early so that the roadway may settle down before the traffic springs up.

The business here is most remarkable & I am today writing to the T. R. General to say that he can no longer do the work here, and that a P. O. must be started at Hamdal. Three notices registered letter containing from 4 to 5000 Rupees in note waiting to be called by 2 native planters, & the Clerk says that to take work & responsibility is too much for him. As regard Extradition that must lie over for the present, but I do not despair of doing so in the matter between the Secretary of State and Lord Elgin. I hope to see the Falls Calcutta about the end of the year. I leave this letter to be made for England.

With kind regards from Mrs Elliot & myself
Yours very truly
Robert N. Elliot

Baltdunkell — Jan. 30. 1894.

My dear Sir K. Frere Hyde

I have at length arrived here after a most unpleasant tour in the Malta Industries Report I can not hear when you come in the neighbourhood. Yesterday Mr Graham Clarke unofficially informed me as to Sir Clasper Conference, and he, and all those present, were highly pleased with the kind way in which you went into the labour difficulties. All those I have consulted now clearly see that a registration act with a system of tickets is the very first step and if you will kindly introduce one at once I will immediately in carrying it. If you obtain an act for Anyone I can easily get Lord Wenlock to introduce it afterwards in Madras but to consult with Madras and to prepare it will involve delay. I have had a most kind letter from Lord Elgin who hoped to see me in Calcutta & much regretted to have missed seeing me before he left for India, and I am confident that I could rely on his pushing forward your proposal without delay. It is highly important that no time should be lost as the Bills connected with Emigrations & Arrangements with the Labour difficulties are daily increasing owing to the competition for labour.

Batchuchulla. Feb. 1. 1894

My dear Sir K. Sheshadri Iyer

Since writing to you two days ago it has occurred to me to ask to be allowed to suggest that, when passing the proposed registration Act, you understand your Excellency's approval of, no reference need be made to Act III of 1859. With a good registration & the difficulties connected with the administration of that Act will disappear. These are not, I think, to be judged regarding the Coolie as an ignorant man who cannot understand his account they stand in law in his favor, and not unnaturally as they do. I feel sure that he intends to depend on Employer. But with a good registration Act, and a system of advance tickets, the Coolie could be under no mistake. He would know that as long as he held registered tickets of advance from one Employer he could not go and take an advance elsewhere without depending his original Employer A clear intent to depend could thus be proved against a Coolie taking advance from B – C – or D when his first advance from A was still standing once

a judge would then have no hesitation in punishing him severely for his wicked attempt to commit a fraud.

The advantage lost by Mantua in Mysore to people in Canara can be put to the Province considered as a whole, for the whole money that would be available for developing the resources of Mysore would pass to people in Canara.

I cannot have out why my publishers can do now with my book. I have sent publishers a chapter of it (Duke of Bourne told his publisher send you a copy & I hope you will accept from myself) & I printed privately to send to some eminent politicians, & hope at home the Times did not send you it, and from his letter, I wish that it has influenced matters & times in Re his question.

I remain, with my kind regards

Sincerely yours

Robert H. Elliot

Barbuchalla
Feb. 6. 1894

My dear Sir K. Shashádri Iyer.

Since writing to you last Thursday I have occurred to me that advances above two Rupees should be registered as a planter might often be willing to advance to that amount without going to the trouble of registration. Compulsory Registration of advances above Rs. 2, and the publication of lists of coolies under advances would go far to prevent the evils arising from advances.

A good opportunity now presents itself for obtaining a Compulsory Registration Act as Lord Wenlock is going to Madras daily to receive a deputation of planters as regards advances & other matters. Now if you will write me a line to say that you approve of a Compulsory Registration Act for all advances above Rs. 2, and the publication of lists of coolies under advances, I will properly write you principles to write privately to Lord Wenlock & tell him your opinion, and mention that it coincides with what Lord Lansdowne wrote to me in answer to a letter from me on the subject. Lord Wenlock, I see from the Mail, will go to Calcutta

Monday, Send I write wrote to Lord Elgin, and that I think the best way to do that
is in a letter. I will also write to one of the Legislative Council
with whom I have fully discussed the whole subject.

A Compulsory Registration Act will strike at the root of the whole evil, for when
the Coolies find he can be compelled without taking advances they will learn to do without them, or limit their demand to the two rupees to be obtained without registration, while
the Coolies who take the advance after advance with the intent to depart will forfeit
it by going when they find that means exist for them being readily detected

If the matter only existed in Mysore alone I should be willing to leave the
Native settlement of it in your hands, but it is most important that Madras should
adopt a similar course of action as we now obtain our labour from Canara,
and I am therefore anxious to see what influence I have to effect a simultaneous
legislation in Mysore & Madras.

a Labourer on my Estate in — I remain Yours truly
— and who receives 18 shillings a week wages
I am finding himself & he has 3 of a year to pay for lodging. Robert H. Elliot
a Cooly here on Rs. 7. requires two Rupees & a half per week.

(13)

(13)

No 10110 Encs
J 509

To

The Govt Advocate
in Mysore

Sir,

I am directed to forward to you the accompanying sample agreements between Masters & Coolies & Coolies & Planters and to request the favor of you submitting the draft of a form of agreement to be adopted in Mysore, & which will fully meet the requirements of Act XIII of 1859.

I have &c

17/12/[illegible]
For Chief Secy
11/12

Courts
No 11-91
Serial No 10

E J Rice
Has this been prepared under Dewan's orders?

17/12/[illegible]

17/12/[illegible]

6th Dec. 1894

My dear Sir

My recollection is that Mr. Bratt promised to get a Form prepared by their Lawyers and send it to us - he further promised to get us the rules and practices that prevailed in Ceylon where, he said the Ordinance worked with less hardship to the Planters. I have not received any papers from them - Hence no Form of agreement was prepared in the Legislature Dept. Certain suggestions were made to the deputation by H. E the Diwan as to the form of accounts to be kept by them and the manner in which the advances were to be entered

The provisions of our Courts run on the same lines as those of British India, and any form of agreement that has to be prepared should be

in

in anticipation of any probable objections that the Courts might raise.

I have no data for answering any of the other questions raised in the extract you sent me

Yours sincerely

J.C. Menacshaiya

My dear Sir

The Dewan has a recollection that Mr. Brett did send these papers and wishes you to make further enquiries, and if necessary to write to Mr. Brett and get them.

No 11-91
No 11

The proposed draft agreement is only by way of suggesting what seems most suitable to the Govt legal adviser and the Dewan has explained to the Planter Representatives that the suggested Form should not be regarded as

authoritative or binding upon the Courts &c.

I write thus, below your letter, for your convenience of reference, as you may not have kept a copy.

Yours sincerely,
(Sd.) J. Ananda Rao.

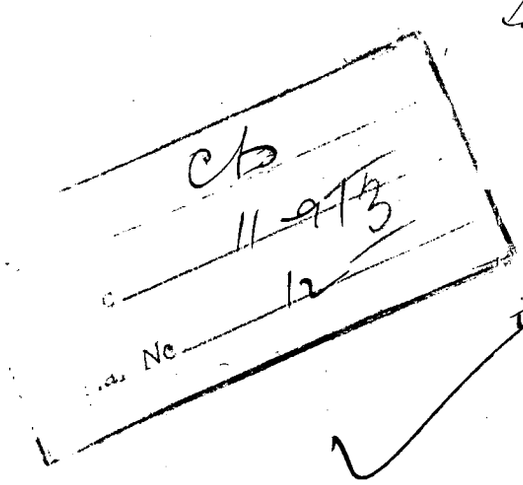
Mysore
17th Jan'y 1915.

C. Manjeshaya Esq

No. 1763. & 19-2-95
& 734

To First Asst to the
The Resident in Mysore

16



With reference
your office No. 3442 & 6th
216-92
October 1893 I have the
honor to state that the
views of the Durbar
as regards the exclusion
of Act XIII of 1859 (Breaches
of Contract) from the
provisions of the Foreign
Jurisdiction and Ex
tradition Act, XXI of
1879 were fully stated
in Dewans letter No. 173 & 20th
July 1892 and the Durbar
still adhere to them

I have &c

Dewan

If the legislature action therein recommended cannot conveniently be taken, the next best course will be to ensure the execution of the bonds described in para 1 of the last quoted letter.

Draft to Submit to

(4)

(15)

Tribm

The forms submd on a mem
x draft of the Forms sent
to the Govt Advt with thers.
Offm No 10110. minus the
" vages 569
vard " Current in the —
remaining items

The planters wanted a forms
agreement most suited to them
and the Govt at the Dasara
meting promised to meet
their wishes so far as was
possible.

If the Forms now recommd
as an approved, they may be
submd to the Dewan for appro-
val also or sent to the Planters
Assn. for Expression of their
views as to whether these
forms will suit them or if they
wd propose any addition —
alteration. Q 9/4

Dewan's opinion
We shall be glad to get from you a draft form
of agreement between Employers and
Employes such as our Govt Advt. can
support" note. The forms are however
not signed — Q

To The 1st Councillor
10/4 WSK

Sometime ago Mr Lewis the
Chief Sec. sent for copies of
the Ceylon Labor ordinance
Then put up a copy of Emb
the ordinances. They were sent
for in connection with the
Dewan's reply regarding repeal of
planters ordinance Act 13/59 —
now in Act 1/92 & 9/3

Then received
Then file with a
note, Dont duly All 10/4

Re Labour ordinance
Mr Lewis's letter
from the Chief Secy
Q 10/4

(General Serial No. 30.)

189

From

The Assistant Govt.
Advocate in Mysore

To

The Chief Secretary to the Govt of Mysore.

(17)

Dated 4th April 1895

Despatched

Received

Enclosures No. 5 & 2 Draft.

General No. 185
No.

Forms

Submitting 2 Sample
forms of agreements
to be adopted in Mysore
between Masters &
Coolies working on the
Coffee Estates.

Recd. 6/4/95 Sir, J 6/4

Submitted with J. File
No. 8 of 1894-5.
Dewan 8/4

I am afraid the forms of agreements now proposed by the Govt do not come within the scope of Act 13/89 -

The first agreement between the Planting & Planter purports to bind the Coolies as well - The separate agreement between the Planting & each Coolly makes it imperative on the latter to work till the whole work required by the Ordinance of the whole Gang is completed - A more unfair and illegal agreement cannot be conceived.

Under the first agreement between Planter & Planting the former can have no hold on the Coolies who are no parties to the agmt ——

I think the Govt ought not to settle any forms of agreement for the Planters who should seek such legal advice as they may require & let agreements be entered into between them -

In regard to proposed legislation there is much that is said for & against the proposed amendments -

In my humble opinion the Govt ought not to interfere & I would prefer the Ceylon ordinances - printed copies of which are forwarded herewith with slight modifications they may be enacted for Mysore

[signature]

19 - 4 95 -

Submit
Ridewan

[signature]

a note as above may issue

[signature]

6/6/95 -

The note 9th inst. say that the Govt of Mysore, as at present advised think it inexpedient to - legislate Something should have been told them before

[signature]

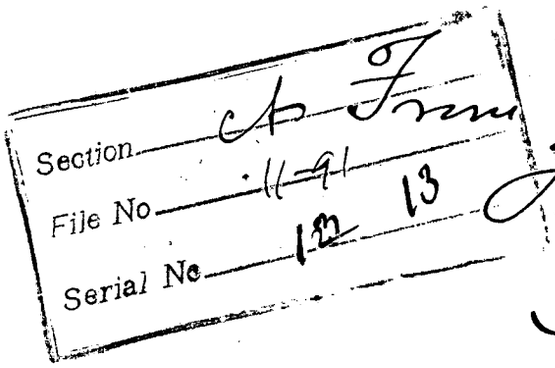
Draft letter to the Chief Commissioner. Draft letter to the Chief Commissioner. [illegible]

Assistant Govt Advocate's
Office 4th April 189

No. 185

Enc: 2 nos 5 & 2 Draft Forms.

(17)



The Assistant Government
Advocate in Mysore

To,

The General Secretary
to the Government of
Mysore

Sir

With reference to the Chief Secretary's letter No. 10110/1569, dated 17th December last I have the honor to forward 2 Sample forms one between the Mastry & the Cooly and the other between the Mastry & the Employer

I find in the printed Sample
form the words wages current
for similar works done in the
Nelson & Wynnard Districts.
But I think as the Contract
would be undesirable and
could not be enforced if the
wages are not fixed I have
therefore omitted the words
" Wages Current in the Nelson
& Wynnard Districts. in the
Sample forms I have sent.
I would Suggest that the
rates of wages would be
invariably inserted in every
Agreement

Agreement Further the insertion of wages in the Agreement will enable the Masters & Coolies to know when there advance would be mis-? The enclosures of the letter under reply are herewith returned

I have the honor to be

Sir

Your most obedient Servant.

S Rennadiwarry

Assistant Govt Agent

Planters Indentures

17
a

Memorandum of Agreement
entered into ——— day of ———
189 ——— between ——— of
——— in the Distrct ———
Planters — and — Master
——— son of ——— of Village —
Witnesseth that in Consideration
of the sum of Rs ——— this
day advanced to me by the said
——— Planters for wages of
myself and of the gang of
Coolies to be found by me as
hereinafter mentioned for work
to be done by us hereunder
and to be repaid by deduction
from

from the Sums to accrue due to me
for the Services hereafter mentioned - hereinafter
I the said —— Mackey
do hereby Contract to plant, dig
weed, prune, handle, manure
and otherwise cultivate the ——
Estate in the —— District
from the —— 189 to
—— 189 with a gang
of Coolies -

I the said —— Mackey
receiving for payment for the
Services to rendered by myself
and my said gang, the wages (wages paid for similar work in the — District on files from the printer for
—— and I hereby especially
and expressly agree that in
case

case of default in the performance of the terms of this Contract or of any portion thereof I shall at the option of the said — Plaintiff continue to work under this Contract with my said gang for as many days after the 189— as I or any of my said gang shall have failed or neglected to work on or made default in working on between the said ——— 189 and ——— 189, at the same rate of remuneration provided

always

always that no Coolie of my said gang who shall have worked regularly from the said ——— 189 ——— 189 shall be required to work thereafter, and that each Coolie of my said gang shall only be required to work after the said ——— 189 for as many days as he shall have failed or made default in working on during that period.

In witness whereof I have hereunto set my hand

In presence
1.
2.

Mastry & Co's

17

Memorandum of Agreement

Entered into this —— day of

—— 189 between Mastry

—— son of —— (acting

on behalf of —— in the one

part — Plantn — son of

—— of Village ——

Taluq — Mysore) — and

—— Cooly son of ——

of —— Village — Taluq

Mysore -

Witnesseth that in consideration

of the sum of Rs

this day advanced to me for wages

for work to be done under the

contract and to be repaid

by

Note - by W. Davis — mastry
in receipt of Rs Thirty
advance left - same
in one Rs forms for
— Coorg

by deductions from the sums to accrue due to me for the services. I hereby agree to render, I the said ——— Cooly do hereby Contract with the said ——— Master to plant, dig, weed, prune, handle, Manure and otherwise cultivate as a Cooly ——— acres of ——— Estate in the ——— District from the ——— 189 to ——— 189— by myself and together with ——— others Coolies - I & the said other Coolies each receiving

receiving in payment therefor
(current fair similar work in — &c) omitted
the wages ——— and
I hereby Especially & Expressly
agree that in case of default
in the due performance by me
of the above Contract or any
portion thereof I shall at the
option of the said ———
Master continue to work as
a Contractor as aforesaid on the said
——— Estate after the said
and shall so work at his option for such many
days after the 189 day
——— 189— as I shall have
neglected to work on as said
default in working on during
the said term (that is to say
between the said ———
189

words in pencil
aforesaid in the
printed form are
omitted

189—— and — 189——)
at the same rate of Rent
: Ration

In witness Whereof
I have hereunto
set my hand—

Witness

1.

2.

ordinary annas receipt stamp is Su
this formerly up to Rs 20 - above
sum are & as stamp not additional is
necessary

Memorandum of Agreement entered into this

day of 189

Between Maistry son of

of Village

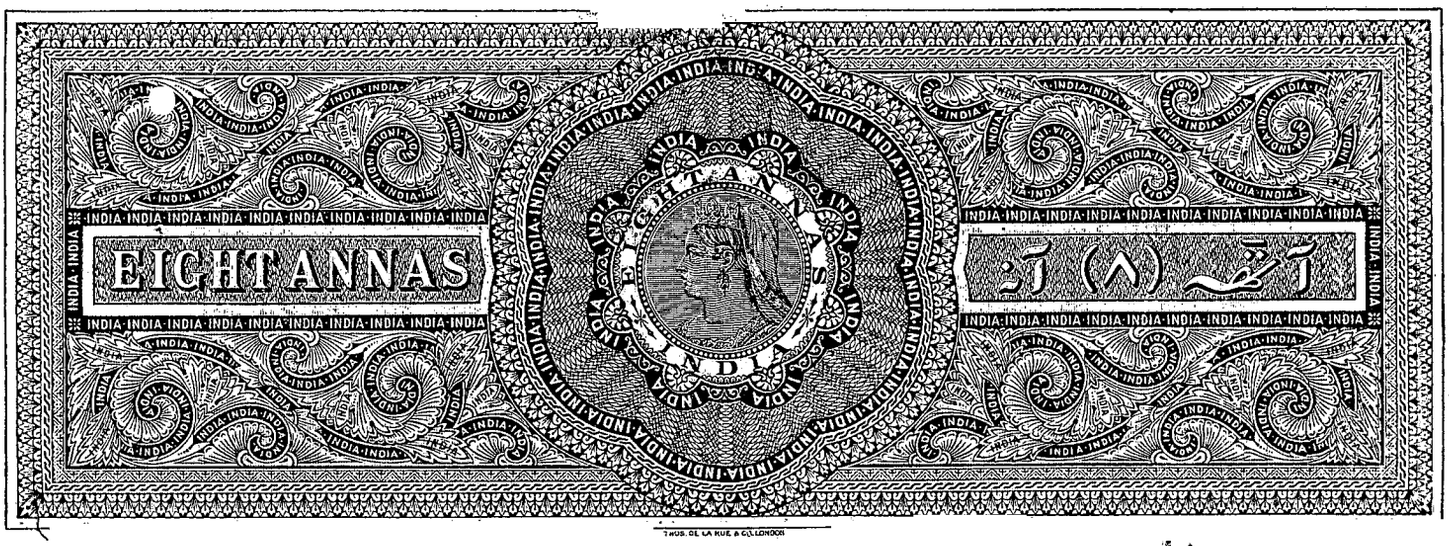
Taluq Mysore and Cooly son of

of Village

Taluq Mysore witnesseth that in consideration of the sum of Rs. this day advanced to me for wages for work to be done under this contract and to be re-paid by deduction from the sums to accrue due to me for the services, I hereby agree to render, I the said Cooly do hereby contract with the said Maistry to plant, dig, weed, prune, handle, manure and otherwise cultivate as a cooly acres of Estate, in the Ouchterlony Valley, Nilgiri District, from the 189 to 189 by myself and together with other coolies I and the said other coolies each receiving in payment therefor the wages current for similar work in the Ouchterlony Valley, Nilgiri District, and I hereby specially and expressly agree that in case of default in the due performance by me of the above contract or any portion thereof I shall at the option of the said Maistry continue to work as a cooly as aforesaid on the said Estate after the said 189 and shall so work at his option for as many days after the said 189 as I shall have neglected to work on or made default in working on during the said term (that is to say between the said 189 and 189) at the same rate of remuneration.

In Witness whereof I have hereunto set my hand.

Witnesses.



THOS. DE LA RUE & CO. LONDON

Memorandum of Agreement

entered into 4th day of [illegible] 189 [illegible]

Between _____ of _____ in the Wynaad District planter and _____ Maistry son of _____ of _____ Village _____

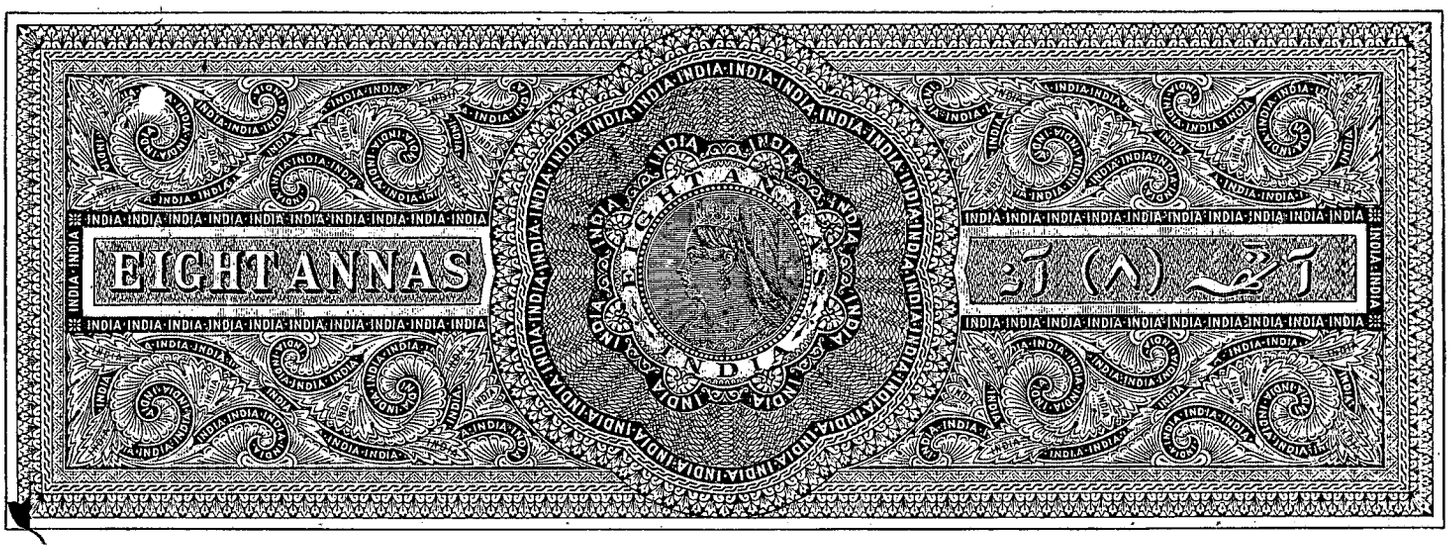
Witnesseth that in consideration of the sum of Rs. _____ this day advanced to me by the said _____ planter for wages of myself and of the gang of coolies to be found by me as hereinafter mentioned for work to be done by us hereunder and to be re-paid by deduction from the sums to accrue due to me for the services hereinafter mentioned. I the said _____ Maistry **do hereby contract** to plant, dig, weed, prune, handle, manure and otherwise cultivate the _____ Estate in the Wynaad District from the _____ 189 to _____ 189 with a gang of _____ coolies. I the said _____ Maistry receiving for payment for the services so rendered by myself and my said gang the wages current for similar work in the Wynaad District **and I hereby specially** and **expressly agree** that in case of default in the performance of the terms of this contract or of any portion thereof I shall at the option of the said _____ planter, continue to work under this contract with my said gang for as many days after the _____ 189 as I or any of my said gang shall have failed or neglected to work on or made default in working on between the said _____ 189 and _____ 189, at the same rate of remuneration provided always that no cooly of my said gang who shall have worked regularly from the said _____ 189 _____ 189 shall be required to work thereafter, and that each cooly of my said gang shall only be required to work after the said _____ 189 for as many days as he shall have failed or made default in working on during that period.

In Witness whereof I have hereunto set my hand.

Witnesses.

വിശ്വനാഥപുരം

നമ്പർ. തണ്ടാർ. കണക്ക്. നമ്പൂതിരിയുടെ പത്രത്തിനു 1892 ഫിബ്രവരി 10-നു
ടി. രാമ. കമ്പനി വക്കീൽ കണ്ടാൽ കാണുന്നതിനു നമ്പർ [illegible]



Memorandum of Agreement entered into this

day of 189

Between of Estate in the Nilgiri District, Planter, **And** Maistry, son of of village Taluq

Witnesseth that in consideration of the sum of Rupees this day advanced to me by the said Planter for wages of myself and of the gang of coolies to be found by me as hereinafter mentioned for work to be done by us hereunder and to be repaid by deduction from the sums to accrue due to me for the services hereinafter mentioned; I the said Maistry **do hereby contract** to plant, dig, weed, prune, handle, manure and otherwise cultivate the Estate in the **Ouchterlony Valley**, Nilgiri District, from the 189 to 189 with a gang of coolies, I the said Maistry receiving for payment for the services so rendered by myself and my said gang the wages current for similar work in the **Ouchterlony Valley**, Nilgiri District, **and I hereby specially and expressly agree** that in case of default in the performance of the terms of this contract or of any portion thereof I shall, at the option of the said Planter, continue to work under this contract with my said gang for as many days after the 189 as I or any of my said gang shall have failed or neglected to work on or made default in working on between the said and 189 at the same rate of remuneration provided always that no cooly of my said gang who shall have worked regularly from the said 189 to 189 shall be required to work thereafter and that each cooly of my said gang shall only be required to work after the said 189 for as many days as he shall have failed or made default in working on during that period.

In Witness whereof I have hereunto set my hand.

Witnesses

P 76

Memo

To these forms it is proposed in future
to add a clause that the contractors
acknowledge that they have not received
advances from other persons & agree
not to solicit or take other advances
until their engagements are fulfilled

No. 23202 / J1402 d/ 15-6-95

Bangalore
15 June 1895

Section N
File No. 11-91
Serial No. 14

(18)

To, The Hony. Secy
South Mysore Planters Association

Letter No. of 30. Dec. 1893
14 Jany. 1894

Sir,

With advertence to your communications as per margin, I am directed to inform you that the Govt. of Mysore as at present advised, think it inexpedient to settle any forms of ~~a~~ agreement ~~for~~ for contracts between the Planters and the labourers employed by them, and that it is preferable that the Planters should seek such legal advice in the matter as may be required.

I have &c
[illegible]

[illegible]
[illegible]
File

Recd. & filed.

Gen. 30.]

OFFICE OF THE
DEWAN OF MYSORE
1895 9/16 1347
Pol 199 2/15

Section C.S.
File No 11-91
Serial No 19

From The 1st Asst to the Resident in Mysore

To

The Chief Secretary to the Govt. of Mysore.

Dated 15 August 1895 (19)

Despatched

Received

Enclosure No. 1

General No. 3188
No.

Regarding the extension of the Foreign Jurisdiction Act Schedule

Send copy of Asst Rests letter to D.Cs. of Dists for information & guidance and point out any applns made to them under S. 14 of the Exts Act ~~shd be forthwith~~ ~~forwarded to the Govt of Mysore~~, with any documents filed by the applicant & his own statement, ~~for an application made to the British Govt~~ shd be forthwith sent to the Govt of Mysore so as to enable it to ~~dispose~~ submit the requisite to the British Govt under the Section above quoted

Recd 15/8/95

27/8/95

Drafted 28/8/95

References to be marked.

Secy to Govt.
To the Judl Secy.
Mar. 16/8

M.G.C.P.B.—4-12-95—3000

No. 3188 E.1

(19)

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

TO

The Dewan of Mysore.

Dated Bangalore, 15th August 1895

SIR,

Reverting to correspondence ending with your letter No. 12763-J.734 dated February 19. 1895, regarding the extension of the Foreign Jurisdiction Act Schedule I am directed to state that Mr. Lee-Warner would personally have been very glad to represent to higher authority the advantages and propriety of such extension. But in the meanwhile it appears to him that the Mysore Government its anxiety to provide one remedy has neglected to use another remedy available to it. Too exclusive an attention has been paid to section 11 of the Extradition Act at the expense of section 14 which

provides a means for securing the extradition of any offender whether his offence be a heinous one scheduled for the purposes of section 11 or an offence not included in the schedule. It appears to the Resident that the Darbar ought to try the effect of section 14 by making a requisition for the arrest of some offender against the Act XIII. 1859. The procedure would be for an aggrieved planter to address the Deputy Commissioner or the Mysore Government direct stating the facts, giving a description of the offender, stating his whereabouts, and undertaking to support his claim by evidence when called upon by a British Magistrate to do so. The Mysore Govt. would then make its requisition on the Government of Bombay, if the offender were in North Canara for instance the Bombay Government would direct a Magistrate in Canara to inquire into the offence, and the planter would produce his evidence. The Magistrate would report and the Bombay Govt.

might order delivery to the Tinnevelly Govern-
ment who having the offender within their
jurisdiction would forward him to Madura
if might be for trial the procedure is
cumbrous but if it succeeded its moral
effect would be good If it failed the
Government of India might be reasonably
asked although they are not willing to
add to the schedule, at least to amend
section 14 so as to improve and shorten the
procedure

2 I am to forward to You a copy
of a letter addressed on April 11th to Mr
Yonge, and to suggest that the Govern-
ment of Tinnevelly should bring the pro-
posal to the notice of Planters in Tinnevelly
and issue orders to the District Officers
to ensure their taking action in any such
case sent up for trial of the procedure
indicated If You refer to the Chief
Commissioners proceedings J D July 23
1878, No 3072 J D You will see
that no Government of India letter
84 J dated June 25th 1878, para-
graph 12 the wide scope of Section

14

which is reproduced in the Act of 1879

14 of Act XI, 1872, was dwelt upon.

I have the honor to be,

Sir,

Your Most Obed^t. Servant,

K. S. Erskine

1st. Assistant Resident.

44

Refer 15/5
Secy

No. 1282
216.92

19
a

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

G. L. Yonge Esquire
Secretary to the United Planters Association of Southern India. Madras

Dated Bangalore, 11th April 1895

SIR,

I am directed to acknowledge the receipt of Your letter dated the 29th September 1894, with its enclosures, requesting that a proposal for empowering British Magistrates to execute Summonses and bailable warrants issued by Magistrates in Native States against defaulters under Act XIII of 1859, might receive the Consideration and support of the Resident

2 In reply I am to ask if the procedure laid down in Section 14 of the Foreign Jurisdiction and Extradition Act XXI of 1879 has ever been tried. That Section provides for requisitions

(6)

from a native state for extradition of "any person accused of having committed an offence in its territories." It appears to the Resident that the provisions of the section have been overlooked and that if a really bad case could be dealt with under that section it would, if successful, inflict upon persons guilty of breach of contract with a wholesome fear, whilst if it failed by reason of technicalities or succeeded at a heavy cost and delay the position would be a strong one. Then the Government of India would be referred and the fact would be pointed out that the law provided a remedy - but that the remedy had proved defective and that all that was asked for was a reasonably satisfactory procedure for giving a redress which the present law offered

but

but in an unsatisfactory form

I have &c

Sd/ G. N. Ravenshaw

1st Asst: Resident

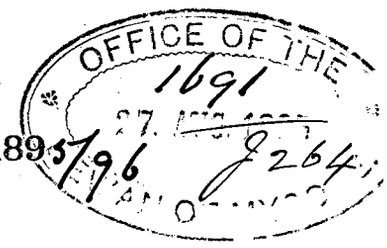
Copy

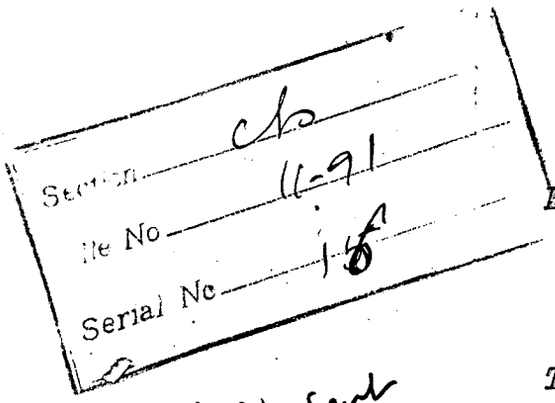
Henry Clarke

Registrar

4

Gen. 30.]





From Mr. T. G. Hamilton
of Chandrapore Estate
Mudigere Taluk
Kadur Dt
now at Cubbon Hotel Bangalore

To The Chief Secretary to the
Govt. of Mysore.

Dated 24 August 95

Despatched

Received

Enclosure No.

General No.
No.

20

Asking for a warrant
for the arrest of one
Hantappa, for criminal
breach of trust.

Submit the application of
(in rough pencil Copy)
to the Resident and
for an order directing
the offence of Criminal Breach
of Contract under sec
XXIII of 1859, and
that intimation may kindly
be sent of the orders
issued on such
requisition for Court
to the applt.

27/8/95

pencil
27/8/95

References to be marked.

28/8 Issued. Copy & file taken

To
The Dewan. The Residency letter on the
subject has been noted.

27/8

M.G.C.P.B.—4-12-95—3000

4

/B/

Cubbon Hotel

Bangalore

27th August 1895.

(20)

To

The General Secretary to the

Government of Mysore

Sir,

I have the honor to request that the Government of Mysore may be pleased to apply to the Government of Fort St. George under Section 14 of Act XXI of 1879 (The Foreign Jurisdiction and Extradition Act) for the arrest and transfer to the 2nd class Magistrate of Mudigere, Kadur District of the following person whom I hereby accuse of having committed Criminal Breach of Contract in respect of the sum of Rs 300/- advanced to him on 4 April 1894. viz: Kantappa Son-in-law of Chinna, residing in Kela Village Pootige Grama Mudbidari maarni Mangalore Taluk South Canara District

(1)

As it will be difficult for the Magistrate

Magistrate in South Canara to ascertain the residence of the accused within my assistance, & have the honor to request that timely notice may be sent to me of the despatch of orders and that the Magistrate may be requested not to issue his orders until the arrival of the person whom I shall depute to point out the accused.

In the summons of the District Magistrate of South Canara, I undertake to produce my witnesses and accounts before him for the preliminary enquiry mentioned in the above named Section.

I have &c

(Sd) J. G. Hamilton
Asst Boundaryfore Estate,
Chudigere Chikmagalur
Kadur District

Office Copy.
Compd.
H.V.

(9)

(21)

J. 332

3038-45 Bangalore.
28 Aug. 1895
J. 4 & 8 of 94-95
729-8-95

To,

The Dy Comrs

I am directed to transmit herewith for information & guidance copies of letter No 3188 dt 15th Aug last from the Ist Asst Resr & its enclosure, denoting the procedure to be adopted in obtaining the ~~procedure to be followed in the~~ Extradition - from British India of persons accused of offences under Act XIV of 1859; and to point out that any applications made to you under sec 14 of the Extradition Act with any docts filed by the appt and his own statement shd be forthwith submitted to the Govt of Mysore, Loss to enable steps to apply to the British Govt for needful action under the above Law

Sd/-

Section C.S
File No 11-A-1
Serial No 17

(6) 7

Bangalore,
28 Aug. 1895

No: 3046 dt 30-8-95
To J.F.S. 6-9-95

(22)

The Asst Regt,

Sir,

With reference to your letter No 3188 dt 15th inst, I am directed to forward for submission to the Regt the accompg original application from W.J.F. Hamilton of the Chandrapur Estate, Mudigere &c, and to request that a requisition may be sent to the Govt of Madras for the surrender of Kantappa therein named, who is accused of the offence of criminal Breach of Contract under Act XIII of 1859, and that information may be furnished to the Durbar of the orders issued on such requisition for communication to the applt.

Yours

Section C 15
No 1191
Serial No 19

Gen. 30.]

OFFICE OF THE
189 5/1879
Pol. 265 310
DEWAN OF MYSORE

From The First Asst Resident

To Dewan
The ~~Chief Secretary~~ to the
~~Govt.~~ of Mysore.

Dated 3/9/95 (24)

Despatched

Received

Enclosure No.

General No. 3441
No.

Requesting that a formal requisition in the form given may be made for the arrest of Kantappa accused in a case of Criminal Breach of ~~Trust~~ Contract under Act XIII of 1859, and that a full descriptive roll of the accused may ~~also be furnished~~ with clear & legible initials of Mr Hamilton.

Subd to Genl Secy for obtaining the rqd information from Mr Hamilton -

References to be marked.

M.G.C.P.B.—4-12-95—3000

4/9/95

Mr Hamilton writes to accy

5/9

Ans'd 7/10/95

Section A5
File No 11-a1
Serial No 19

8

Urgent

No. 3441 one: one.

18/

FROM

(24)

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

(10)

To

The Dewan of Mysore.

Dated Bangalore, 3rd September 1895.

SIR,

In reply to your letter No. 3046 dated the 30th Ultimo I am directed to request that you will submit a form requisition from the Mysore Government in this form

"Whereas Her Highness the Maharani Regent assisted by the Dewan and Council of the Mysore Government are for the time being administering the executive Government of Mysore and whereas one Kantappa, described more particularly in the description roll hereto annexed is accused by Mr. — Hamilton of having committed an offence

in

in Mysore against Act XIII of 1859 in respect of a sum of Rupees 300/- advanced to him on April 4th 1894 for work which he has fraudulently neglected to perform, this requisition for the surrender of the said Kantappa to the Mysore Government is preferred thro' the Resident of Mysore to the Local Government of Madras.

By order of the Mysore Government

Secretary"

2. I am further to request that a full descriptive roll of the accused Kantappa may be attached to the above requisition and that the initials of Mr. Hamilton (his letter is attached – return requested) which are not clearly legible may be given

I have the honor to be

Sir,

Your most obedient Servant

K. D. Erskine Captain,
First Assistant Resident.

Rec'd 5·10 p.m.
Jud. Dept
3/9 1894

9

(25)

Dear Sir,

I have reed just now your offecial letter regarding the application of Mr Hamilton for the arrest of a man named Kantappa from the South Canara district. A descriptive Roll of the accd is called for, but we have no infor on the subject beyond what is stated in the applr itself. The personal appearance of the accused and other marks of identification are not stated.

Mr Hamilton lives in the Nilgiri district and a letter to him will take 3 days to reach him.

As the letter on the subject is marked "urgent", I request you will be so good as to let me know whether the descriptive roll should be prepared on the infor available here

Section 15
File No 11-21
Serial No 20

here or fuller details called for. In the latter case, I fear some delay will be unavoidable

As the Dewan is not here, I have deemed it right to ask for instructions

Believe me
Yours Sincerely
(Sd)

3d Septr 1895

To,
Captain K. D. Erskine

C60
11-91
9ϕ

Septr 3rd

(26)

Dear Sir

found your letter about
the extradition of the coolie Kan-tapp
at my house on return from office.
The descriptive roll must the Resident
thinks, be a full one. More details
than were given by Mr. Hamilton in
his letter to you are necessary.
This is the first requisition of it's

and & everything must be complete

& reference to Mr. Hamilton &

consequent delay is unavoidable

Please address Mr. H. as soon --

possible

Believe me

Yr. Truly

K. D. Ezekiel

Narasamiengar Esqre

Jnt. Secretary Mysore Govt.

(11) No: 3234 / 3365 8/5-9-95

(28)

/9/

J.S. Hamilton Esq

The Chandrapur Estate,

Nundigam TK

Sir,

tion	C.S.
e No	11-9-1
erial No	22

With reference to the application for a warrant for the arrest of a copy ~~of~~ named Kantappa, ~~the~~ accused of a ~~punishable~~ criminal breach of contract under Act XIII of 1859. I am instructed to forward the enclosed request that you will furnish me at your earliest convenience with the attached form with a descriptive Roll of the accused person, in order that a formal requisition may be made for his arrest & detention

I am

Sept 5 - 1895.

Gen. 30.] (12)

OFFICE OF THE DEWAN OF MYSORE. 2626 OCT 1895 J 397-

1895/96

From Messrs J. G. & Fr. Hamilton
Chandapur Estate
Hindupur

To

The Chief Secretary to the
Govt. of Mysore.

Section C.S.
File No 11-41
Serial No 25

Dated 24 Sept 95- (29)

Despatched

Received 7/10

Enclosure No. 1

General No.
No.

Enclosing description roll of Thimappa alias Hooka who absconded after committing Criminal Breach of Contract.

Jud
1.10.95

References to be marked.

submitted. The file no: 8 of 94-95 relating to this has been subd yesterday -

CV
7-10-95

M.G.C.P.B.—4-12-95—3000

Telegraph: Mudigere.
Ry. Station: Banawar.

Chundrapore Estate,
MUDIGERE,
KADUR DISTRICT, MYSORE,
24 Sept 1895

/10/

(29)

To the General Secretary
to the Government of Mysore

Sir

In reply to your No $\frac{3234}{7365}$ of 5th inst addressed to Mr J. G. Hamilton we have the honor to enclose the descriptive roll required

We have the honor to inform you that all business in connection with this Estate will be carried on in the name of Jno G & J M Hamilton instead of the name of the former only as heretofore.

We have the honor to be
Sir
Your most obedt Servants

Jno G & J M Hamilton

Yours truly

Mrs. Hamilton

Descriptive Roll

29
W

of Kantappa alias Kooka who absconded after committing the offence of Criminal Breach of Contract on ~~4th April 1894~~ 9th February 1895

Name Kantappa alias Kooka
Father in laws name Chinnappa
3 Caste Aliyasantana - Bilawar or Devaru Makalu caste
4 Age Abut 28
5 Colr. Dark brown
6 Special marks Nine known is a shortish sturdy man slight whiskers & moustache when last seen
7 Residence Kerla in Portige grama Mangalore Taluq S Canara
8 Connections in Koorta village close to Gowrankerry village his eldest brother in law Kuttama(?)

W Mollyhamilton

15

Ls No 29 of 7-10-95
P. 127

(30)

The Ist Asst Resr

Section	15
File No	4-91
Serial No	24

Sir,

I am requested in reply to letter No 3641 of 3rd Inst. I am directed to submit a formal requisition from the Magte Gwr in the prescribed form for the surrender of Nagatappa alias Korka, who is accused by Mr J S Hamilton of the Chennamalum Estate, murder Dr. I am of opinion that Act XIII of 1859 is in respect of a sum of Rs 300/.

2 A description of the accused also attached as Hamilton's initials are J S His original letter is herewith returned transmitted for reqn

Kitpore. 7 Oct. 1895

7/10/95

13.

The whole
case to be
sent to Mr Ward
as above with letter from AM 7/10

14

30

Whereas Her Highness the Maha-
Rani Regent assisted by the Dewan and
Council of the Mysore Government are for
the time being administering the Executive
Government of Mysore and whereas one
Kantappa alias Kookà described more particularly
in the descriptive roll hereto annexed
is accused by Mr Hamilton of having
committed an offence in Mysore a-
gainst Act XIII of 1859 in respect of a sum
of Rs300/- advanced to him on April 4th
1894. for work which he has fraudulently
neglected to perform this requisition for
the surrender of the said Kantappa alias Kookà to
the Mysore Government is preferred
through the Resident of Mysore to the
Local Government of Madras.

By Order of the Mysore Government

7.10.95

General Secretary to the
Mysore Government.

Warrants
issued
by
D.1.2.94

30

Descriptive Roll

of Kantappa alias Kooka who absconded after committing the offence of Criminal Breach of Contract on 9th February 1895.

Name Kantappa alias Kooka.

2. Father-in-law's name Chinnappa.

3. Caste - Aliyasantana Bilawar or Devaru Makalu caste.

4. Age About 28

5. Color - Dark brown.

6. Special marks - None known. Is a short ish sturdy man slight whiskers and moustache when last seen.

7. Residence Kerka in Portige grama Mangalore Taluk South Canara

8. Connections in Koerka village close to Gowrankere village - his eldest brother-in-law Kuttanna (?).

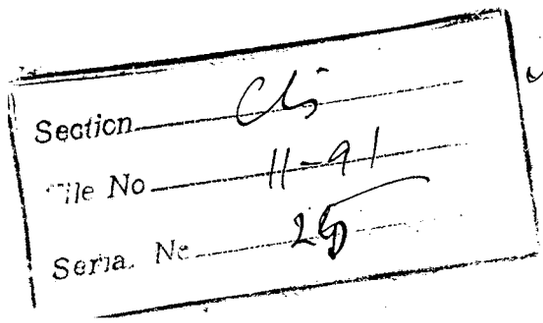
JMM

7.10.95

32

No. 37/0 dt 4-11-95

To



The Resident in
Mysore

Sir

I beg to acknowledge
your office
~~Residency~~ letter No. 3188
dated 15th August 1895
and to state that the
~~Secretary~~ Superintendent of the British Re-
sident in regard to the
enforcement of the pro
visions of Section 14 of the
Extradition Act in regard

to offenders against the Breach of Contract Act who may escape into British Territory, ~~have been communicated~~ to the ~~Deputy Commissioners of Districts and~~ the test case of Hamilton ~~&~~ Kantappa is now awaiting the orders of the Madras Government the views of the Durbar on this subject are contained in the marginally noted letters a perusal of which will show that the Durbar were not

where received by the Durbar as offering some remedy to those whose slight one, ~~of~~ the ~~act~~ an acknowledged evil and the necessary order would ~~not~~ issued by the Courts for their protection. ~~Should the Durbar's suggestions~~ ~~be~~ tried & the suggested remedy

Submitted to 1st Asst Resdt with Genl Secy No 49 P 127 7.10.95

No 8 dated 28th Augt 1891.
" 17 dated 20th July 1892
" 12763/734 dated 19th Feby 1895.

satisfied, (having regard to the migratory character of the offenders), with the extension of the Extradition Act Schedule by an executive order of the Government of India but desired in the interests of the Planting Industry an amendment of the Criminal Procedure Code enabling the Government of India by an executive order to ensure complete reciprocity between Singapore and British

India, as regards processes
viewed by Mysore Magistrates.
While the Mysore Durbar
are most anxious
to apply any available
remedy calculated to
ameliorate a real
standing grievance
of their Planter-subjects,
I beg to state that the
remedy suggested by
the Resident which perhaps
was what was referred
to by the Right Hon'ble
Mr. Curzon in the
latter portion of his
reply in the House

of Commons on the 31st May 1892 to Lord Dunsany is the more expensive and circuitous than even the lesser of the two three remedies which it is in the power of the Government of India to vouchsafe to the Planters of Mysore the Durbar consider that it is this unsatisfactory character of the remedy afforded by Section 14 of the Extradition Act that deters Mysore Planters from approaching the Mysore Government

with proposals to put
it in force in the case
of defaulting Contractors,
until your predecessor
in his letter No. 1252/216.92 dated
11th April 1895 to the
Secretary to the United
Planters Association
suggested a resort to
it as a means of
inspiring wholesome
fear in the class of
defaulting Coolies and

and of providing object
lessons to the Govt. of India
as regards the insufficiency
of the remedy afforded by
the existing law. Mr. Lee-
Warner has also left it on
record that personally he
would have been very
glad to represent to the
Govt. of India the propri
-ty and advantages of
the extension of the Extra
-dition Act Schedule so
as to include Criminal
breaches of Contracts in
the list of extraditable
offences. The Darbar
however are respect
fully of opinion that
the ~~most effectual~~ remedy
~~do not the~~ ~~remedy~~ ~~called~~ for by the circumstances of the Planting Industry in Mysore

— in fact the only effectual remedy —

is the alteration of the
Criminal Procedure
Code in the manner
suggested in my letter
No. 17 dated 20th July
1892 and ~~its enclosures~~ the Draft Law then enclosed
And they would feel
extremely satisfied if you
~~the British Resident~~
Can after a full Con
sideration of the Cor
respondence on the
subject and the Circumstances of the case
Planting Industry, see your
~~his~~ way to recom-
mending to the Govt
of India the granting
of the last mentioned measure of re-
lief ~~which alone the Durbar considers would~~
~~fully meet the requirements of the case.~~

by means of a distinct British Act of Legislature
In 1878 the Govt of India
expressed the opinion that
such legislation was then
undesirable but the
Durbar hope that during

having regard to the
~~During~~ the ~~past 17 years~~ great changes which have taken
place during the past 17 years the
British Govt will be able now to take a
more favorable view of the question
If this is impossible the next best
remedy is the Extension of the Operation
of the Extradition Acts under S. 11
If even this much smaller measure
of relief is refused then the Circumstances
proceedings under S. 14 of the said
Act is the only remedy left and
I shall feel obliged by your taking
steps to ensure that the

and I beg to submit the question
for your most favorable Consideration
~~Yours~~ and I have Subscribed

4/11/95

From Colo. for approval by

(33)

To

No. 42 dy 6-12-95 the Resident in Mysore

D

Sir

~~I beg to draw your~~

adverting ~~attention~~ to the form of requisition for the extradition of offenders under Section 14 of the Extradition Act, ~~XXX~~ of 1879, suggested in Resident's letter No. 3441 dated 3rd September 1895, ~~and~~ ~~adopted by the Durbar~~ in the case ~~referred~~ to in this Office letter No. 49 dated 7th October 1895, P. 127 and in which I am directed to

Section Cls
File No 11-A
Serial No 26

to point out that the
preliminary description therein given
of the authority advocated
terms the Territories
of Singapore is not in
strict accordance
with the language
used in para 4 of
Residency letter No
5 V, dated 16th February
1895. Having regard
to the formal nature
of such requisitions
I beg to propose, that
in future requisitions
of the kind the words
"Whereas Her Highness
the Maharani Regent ~~said~~ and in concert
~~with Tuan Syed Mahomed bin Ahmed Alsagoff~~
~~Tuan Sir H. Cheshire~~
~~Esqr~~ assisted by a Council
of whom he is the President
are for the time being

administering the
executive Government
of Mysore" may be substituted
if you see no objection, ~~substituted~~ for the words
Whereas Her Highness
the Dowager Regent
assisted by the Dewan
and Council of the Mysore
Government ~~are for~~
the time being administering
the executive
Government of Mysore

A
P. 673

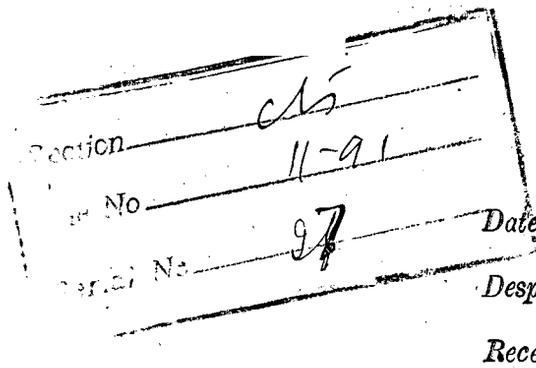
Gen. 30.]

1895

From The First Asst Resident

(35)

To Dewan
The Chief Secretary to the
~~*Govt.*~~ *of Mysore.*



Dated 16-12-95

Despatched

Received

Enclosure No.

General No. 4995
No.

Stating that the Resident has no objection to the modification suggested in the form of reply question for the extradition of offenders under Sec 14 of Extradition Act.

References to be marked.

M.G.C.P.B.—4-12-95—3000

Recd 17-12-95 ZP

20

No. 4995

35

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

TO

The Dewan of Mysore

Dated Bangalore, 16th December 1895.

SIR,

With reference to your letter No. 42-D dated the 5th instant I am directed to say that the Resident has no objection to the modification therein suggested of the form of requisition for the extradition of offenders under section 14 of the Extradition Act.

I have the honor to be,

Sir,

Your most obedient servant,

H. D. Erskine Captain

1st Assistant to the Resident

Govt Orders
Note this for future guidance
The correction made have been communicated to the Resident
when sending the
letter of the 7 Oct.
Then the correspondence will have been recorded

17/12/95
ZP

NO. 1093 Ex 3

37

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

TO

The Dewan of Mysore.

Dated Bangalore, 23 March 1896.

SIR,

I am directed to inform you that the requisition for the surrender of Kantappa alias Hooka received with General Secrett letter No. 49 Pol. 127 dated camp the 7th October 18 was forwarded to the Government of Madr on the 12th idem, and that Government h just replied that having consulted the vocate General His Excellency the Gover in Council has arrived at the conclusion that the accused person cannot for the offe of which he is accused be surrendered by t Madras Gavrnment to the Durbar unde Section 14 of the Extradition Act.

The opinion of the advocate General is follows:-

"The Extradition Act XX of 1879 "seems contemplate two distant cases. First, where offence has been committed, in any of se states specially connected with India, which the Governor-General in Council s a power and jurisdiction which is rcised by a Political Agent (S. 3). ondly, where the offence is committed in ne state where there is no such Indian risdiction, or in some other part of Her ajesty's dominions" (a)

Sections 11 to 13 inclusive apply to the ot section 14 to the second of the cases above entioned.

"Offences under Act XI of 1859 are t included in the schedule to Act XXI of 9. therefore sections 11 to 13 of the latter Act pre applicable to them. The Resident in Mysore ke ps that as such offences "can only be dealt th under section 14 of the Extradition Act" the e Resident" advised the Durbar to make trial

of the only procedure which the extradition law allows for the surrender of persons accu-ed of non-scheduled offences."

Mysore is a state falling within the first class mentioned in paragraph 1 of this opinion. Therefore Section 14 of the Extradition Act do not, I think, apply, and the course proposed cannot be legally complied with.

3 I am to say that the failure of this method necessitates a reconsideration of the whole question which the Resident proposes accordingly to undertake.

4. The requisition and Descriptive roll received with your letter under reply are herewith returned.

I have the honor to be

Sir,

your most Obedient Servt

Kd. Erskine Capt

First Assistant Resident

Draft for
Approval —

Comrade Kier Hardie
M. decided on the
London Gov. Bill
& Clause for the London
Advocate Local Opinion —
ask that M. Parliamentary
Committee & Industrial
& Co-operative
Societies in London
again ~~protesting against~~
this Bill for an
Amendment of the
Factories Acts in
this Session Suggested
by Mr. in that letter
& Mr. Burns
Committee in the
House of Commons —

No longer req'd
29/8/96.

Written to her
in a letter book

37

Whereas Her Highness the Maharani-Regent assisted by the Diwan and Council of the Mysore Government are for the time administering the Executive Government of Mysore and whereas one Kantappa alias Kooka described more particularly in the Descriptive Roll hereto annexed accused by Mr. Hamilton of having committed an offence in Mysore against Act XIII of 1859 in respect of a sum of Rs 300/- advanced to him on April 1st 1894, for work which he has fraudulently neglected to perform this requisition for the surrender of the said Kantappa alias Kooka to the Mysore

Breach of contract,

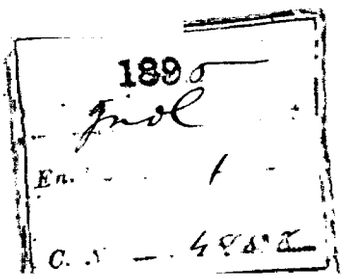
under what law?

Coorg Government is preferred through the Resident of Coorg to the Local Government of Madras

By Order of the Coorg Government.

W. Marshall Hughes,

General Secretary to the Coorg Government.



37
b

Descriptive Roll

Of Kantappa alias Kooka who ab
conded after commmng the offence of
Criminal Breach of Contract on 9th February 1895

Name Kantappa alias Kooka

Father-in-laws name. Chinnapp...

3 Caste. Alijasantana Bilawar or
Devaru Nakalu Caste

4 Age. About 28

5. Color Dark Brown

6. Special Marks. None known Is a shortish
Sturdy man Slight whiskers
and moustache when last
seen

7. Residence. Kerla in Sortige Sim...
Mangalore Taluk, South
Canara.

8 Connections in Koorla Village close to
Gowrankere Village, his eldest Brother in-law
Kuttanna C).

By
V Madhavaraya
Cir Sheristadar.

Rec'd 29-8-95
Ans

Ld. Br.
Appr the request herein
Sam
27/8

37
C

Cubbon Hotel
Bangalore
27 August 1895

The General Secretary
to the Government of Myso
Bangalore

Sir

I have the honor to request that the Government of Mysore may be pleased to apply to the Government of Fort St George under section 14 of Act XXI of 1879 (The Foreign Jurisdiction & Extradition Act) for the arrest and transfer to the 2d class Magistrate of Mudigere Kadur ~~District~~ of the following person whom I hereby accuse of having committed Criminal Breach of Contract in respect of the sum of Rs 300/- advanced to him on 4th April 1894 - viz Kantappa son in law of Chin residing in Kela village Pootige grama Mudbidare magani Mangalore taluq South Canara District

As it will be difficult for the Magistrate in South Canara to ascertain the residence of the accused without my assistance I have the honor to request that timely notice may be sent to me of the despatch of orders and that the magistrate may be requested not to ~~allow~~ issue his orders until the arrival of the person whom I shall depute to point out the accused

On the summons of the District Magistrate of South Canara I undertake to produce my witnesses and accounts before him for the preliminary enquiry mentioned in the above named section

I have the honor to be.
Sir
Your most Obedient Servant

M Mollamiah

of Chundrapore Estate
Mudagunnu Shug
Kadur District

VRL 4
5399 - 5 of 5 - 7/13
26
11-91
29

1896
Draft for —1

'The Resident in Mysore

(38)

Sir,

In acknowledging the receipt of your Confidential letter No. 1093 dated the 23rd March 1896 conveying the decision of the Madras Govt. in re-the surrender of one Kantappa alias Kooka accused of Criminal Breach of Contract under Act XIII of 1859 I have the honor to request that now that the remedy under section 14 of the Extradition Act has failed I you will be so good as to take into favorable consideration the proposals of the Darbar conveyed in my letter No. 17 of 20th July 1892 and reiterated in letter

Rd & Record
10
6/4/96

Draft entered by your predecessor

No. 37/D of 4th November/95,
and obtain the early
orders of the Govt of
India thereon.

I have etc

Duncan Baker

Submd to Secretary

This letter may go
to Resident direct from Bkm.

6/14/96

Draft for approval
1896 Of Devan

39

F M Hamilton Esq.
The Chendalur Estate
Muragode Taluk

Sr C to
No 11-91
No 30
Dis

With reference to your letters of the 27th August and 24th September 95 requesting that an application may be made to the Govt of Madras for the surrender of one Kantappa alias Kooka accused of the offence of Criminal Breach of Contract under Act XIII of 1859, I am directed to state that the Darbar made a requestion to the Madras Govt for the surrender of the said Kantappa under section 14 of the Extradition Act

and ~~that~~ but that Govt
has replied that the
accused cannot, for
the offence of which
he is accused be
surrendered. In com-
municating to you
this decision of the
Madras Govt together
with an extract of
~~the Residency letter no~~
1093 ~~of the~~ 23d March 96
~~Govt~~ of the Advocate
General's opinion upon
which ~~this~~ the decision is based,
I am to inform you that,
now that ~~that~~ the
remedy under section
14 of the Extradition Act
has proved illusory, the
Darbar will once
more press upon the
Govt of India the
necessity for affording
a remedy either by
an amendment of
the Criminal Procedure
Code ensuring complete

complete reciprocity between Mysore and British India as regards criminal processes issued by Magistrates, or by an extension of the Extradition Act schedule so as to include criminal Breaches of Contract in the list of Extraditable offences

2 I am also to add that the British Resident has been pleased to express his willingness to undertake a reconsideration of the entire question

D A

I have the

Secy

6/14/96

6/24/96

CS
11-21
~~29~~ 31

40

GOVERNMENT OF MYSORE

a enclosure
after her letter
re Extradition
filed. 2 spare copies filed
31 x 96

Bangalore
29th August/96

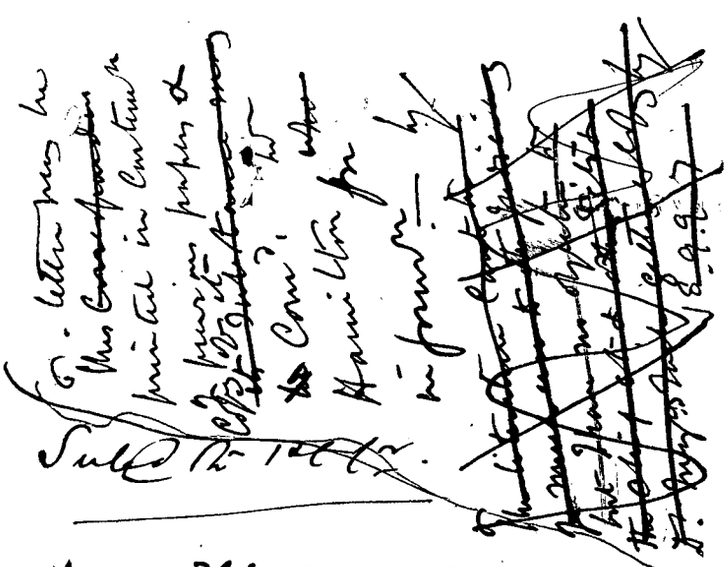
My dear Mr Hamilton

In continuation of our conversation the other day I send the enclosed papers (with 3 spare copies) regarding Extradition which contains

the last letter which was not contained in the printed copy I gave you that day.

Yours sincerely,

/Sd/ K. Sheshadri Iyer.



This practically means that the Madras courts & other local Govt and not to comply with a requisition from the Durbar unless there has been a failure to comply with the Magistrate's order under Section 2 of the Breach of Contract Act - We think no better way can be devised than to refer the matter to the Court of India on the subject -

12/7/97

12/7/97 6514-6

Mr -

The correspondence to be put up to Government with a draft letter to the Secretary of State for India in Council in Council for instructions in the matter -

12/7/97

Submitted & Returned

13/7/97

8.32

OFFICE OF THE
6 - JUL 1897
DEPARTMENT

From Resident in Mysore

To 71-91

The Secretary to the Govt. of Mysore,

Dept. 5

Dated 3rd July 97

Despatched

Received 6 — " —

General No. 2794

No.

Enclosure No.

Re the surrender of one Kantappa alias Kooka. Stating that Govt of India differ from the Advocate General, Madras, in his opinion regarding the operation of Sectn 14 of the Foreign Jurisdiction Act between Native & Foreign States &c

References to be marked.

J.J. No 804/1894-95 put up.

10/7/97

Full papers of Act XIII of 59 & Manual of Decisions under BR 107 put up.

Sub to the Secretary -

10/7/97

Rec'd 5/7/97
Ans 5/7/97

No. 2794

41

FROM
Section C5
No 11 91
Serial No 39
To

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

The Dewan of Mysore.

Dated Bangalore, the 3rd July 1897.

SIR,

Adverting to the correspondence ending with this office No. 1093 dated the 23rd March 1896 regarding the surrender of Kantappa alias Kooka who had been accused of an offence under Act XIII of 1859, I am directed to inform you that the Government of India are unable to accept the opinion, in this case, of the Advocate General, Madras and to adopt the distinction he draws as regards the operation of Section 14 of the Foreign Jurisdiction and Extradition Act XXI of 1879, between native and

× Sl. No. 37 in the file

and Foreign States; at the same time they consider that the discretionary power which the Local Government possess in complying with applications for extradition under Act XIII of 1859, should be very sparingly exercised, and they are advised that no offence under that Act can be deemed to be complete, unless, and until, there has been default in complying with an order passed by the Magistrate under Section 2.

I have the honour to be

Sir,

Your most obedient Servant.

Capt.,

First Assistant Resident.

S.P.

Gen. 31.]

1897

OFFICE OF THE DEWAN OF MYSORE. 135 5 JUL 1897

From The District Magistrate
Hadur District

To
The Secretary to Government
General & Rev. Depttts

Dated 3rd
Despatched 5th July 1897
Received 8

General No. 12
No.

Enclosure No. 16

Submitting for needful action, 2 applications made by Mr W. St Clair Johnson of the Kalhatti Estate Sanitveri for obtaining extradition from British India of persons accused of offences under Act XIII of 1859

J. No 8 of 1894-95 putup
10/7/97

7.7.97

Subs to the Secretary – with letter no 2794 & 3 Mst. from the Residency.
10/7/97

Submitted
Under the ruling of the Govt of India enclosed in Residency letter No 2794 dt 3/7/97, it seems useless to send a requisition in these cases – That ruling seems to require reconsideration –
12/7/97

6514-a

Returned with reference to the Govt of India
18/9/97

Submitted to Dewan
13/7/97

13/7/97

Chikmagalur
2nd July 1897

From

The District Magistrate
of Kadur

To

The Secretary to Government
General and Revenue Depto

Sir

With reference to your letter No
3038-45 dated August 1895, transmitting copy of letter No 3188 dated 15th ultimo from the First Assistant Resident and of its enclosure in re the procedure to be adopted for obtaining the extradition from British India of persons accused of offences under Act XIV of 1859 and pointing out that any applications made under Section 14 of the Extradition Act with documents, &c, should be submitted to Government for needful action, I have the honor to submit herewith eight applications made by Mr W. St Clair Johnson of Kulhatty Estate, Santaveri together with the documents filed by him and his own statement recorded by the Amildar Magistrate of Tarikere and to request that you will be good enough to move Government to apply to the British Government for the necessary action under

the

the Extradition Act. (42)

2. It will be seen from the enclosed documents of that the accused are natives of Hadagaly (Dasarahalli) Yemigay and Henchinbundy in the Bellary District of the Madras Presidency and that the applicant has undertaken to send his Mestri to identify them

3 The agreements produced by the applicant do not bear Impore stamp and will presumably have to be impounded in due course.

I have the honor to be

Sir

Your most obedt Servant

District magistrate
of Gadur

Camp No: 14 d. 29-9-97

(43)

Read—

(1) Letter No. 388 dated the 14th August 1895 from the Asst to the Resident in Mysore to the Dewan of Mysore on the subject of the procedure to be adopted for obtaining the surrender of persons accused of criminal breach of contract of Service under Act XIII of 1859:—

Print in full

(2) Letter dated 27th August 1895 from Mr J. Hamilton of the Chandrapore Estate, Mudgere Taluk requesting that an application be made under Section 14 of Act XXI of 1879 to the Govt of Madras for the arrest and transfer to the 2nd class Magistrate of Mudgere of one Kantappa accused of the offence of Criminal breach of contract

(3) Letter No 3046 dated the 30th August 1895 from the Asst to the Resident forwarding Mr Hamilton's application and requesting

(X)

that a requisition may be sent to the Government of Madras for the surrender of Kentappa

(4) Letter No 3441 dated 1895 from the 1st Asst to the Resident in Mysore stating in what form application should be

(5) Letter No 49 - P. 127 dated 7th Jan 1895 to the first Asst. to the Resident in Mysore submitting an application in the prescribed form for the surrender of Kentappa alias Kooka.

(4) Letter No ~~1093 dated the 23d March 1896~~ 37 dated the 4th November 1895 to the Resident in Mysore

(Print in full)

(5) Letter No 1093 dated the 23d March 1896 from the First Asst to the Resident in Mysore, to the Dewan of Mysore :—

(Print in full)

(6) Letter No 2794 dated the 3d July 1897 from the First Asst to the Resident in Mysore, to the Dewan of Mysore

(Print in full)

Order

The above correspondence will be printed, & communicated to all District Magistrates & Sessions Judges through the Chief Court of Mysore.

Secretary

To The Registrar of the Chief Court of Mysore

24/9/97

(X) Corrections made by the Secretary on proof & ordered to be returned to the Press on 17/10/97.

P.S.

& the proof is in the Press

1897-98 (43)

GOVERNMENT OF MYSORE

5 -91 34

JUDICIAL

PROCEEDINGS

ed 29th September 1897

Camp No. 4.

Communicating to all District Magistrates and Sessions Judges copies of correspondence relating to the extradition of persons accused of offences under Act XIII of 1859.

M.G.C.P.B.—1-11-97—250

READ :—

(1) Letter No. 3188, dated the 15th August 1895, from the First Assistant to the Resident in Mysore, to the Dewan of Mysore, on the subject of the procedure to be adopted for obtaining the surrender of persons accused of criminal breach of contract of service under Act XIII of 1859 :—

Reverting to correspondence ending with your letter No. 12763—J. 734, dated 19th February 1895, regarding the extension of the Foreign Jurisdiction Act Schedule, I am directed to state that Mr. Lee-Warner would personally have been very glad to represent to higher authority the advantages and propriety of such extension. But in the meanwhile, it appears to him that the Mysore Government in its anxiety to provide one remedy, has neglected to use another remedy available to it. Too exclusive an attention has been paid to Section 11 of the Extradition Act at the expense of Section 14, which provides a means for securing the extradition of any offender, whether his offence be a heinous one scheduled for the purposes of Section 11 or an offence not included in the schedule. It appears to the Resident that the Durbar ought to try the effect of Section 14 by making a requisition for the arrest of some offender against the Act XIII of 1859. The procedure would be for an aggrieved planter to address the Deputy Commissioner or the Mysore Government direct, stating the facts, giving a description of the offender, stating his whereabouts, and undertaking to support his claim by evidence when called upon by a British Magistrate to do so. The Mysore Government would then make its requisition on the Government of Bombay, if the offender were in North Canara for instance. The Bombay Government would direct a Magistrate in Canara to inquire into the offence, and the planter would produce his evidence. The Magistrate would report and the Bombay Government might order delivery to the Mysore Government, who having the offender within their jurisdiction, would forward him to Kadur, it might be, for trial. The procedure is circuitous, but if it succeeded, its moral effect would be good. If it failed, the Government of India might be reasonably asked, although they are not willing to add to the schedule, at least to amend Section 14 so as to improve and shorten the procedure.

2. I am to forward to you a copy of a letter addressed on April 11th to Mr. Yonge, and to suggest that the Government of Mysore should bring the proposal to the notice of Planters in Mysore and issue orders to the District Officers to ensure their taking action in any test case sent up for trial of the procedure indicated. If you refer to the Chief Commissioner's Proceedings J. D., July 23rd, 1878, No. 3072 J. D., you will see that in Government of India letter No. 84 J., dated 25th June 1878, paragraph 12, the wide scope of Section 14 of Act XI of 1872, which is reproduced in the Act of 1879, was dwelt upon.

(2) Letter dated 27th August 1895, from Mr. T. J. Hamilton of the Chandrapore Estate, Mudgere taluk, requesting that an application be made under Section 14 of Act XXI of 1879 to the Government of Madras, for the arrest and transfer to the Second Class Magistrate of Mudgere of one Kantappa, accused of the offence of criminal breach of contract.

---

(3) Letter No. 3046—J. F. 8 of 1894-95, dated the 30th August 1895, to the First Assistant to the Resident in Mysore, forwarding Mr. Hamilton's application and requesting that a requisition may be sent to the Government of Madras for the surrender of Kantappa.

(4) Letter No. 3441, dated the 3rd September 1895, from the First Assistant to the Resident in Mysore, stating in what form the application should be.

(5) Letter No. 49—P. 127, dated 7th October 1895, to the First Assistant to the Resident in Mysore, submitting an application in the prescribed form for the surrender of Kantanna *alias* Kooka.

(6) Letter No. 1093, dated 23rd March 1896, from the First Assistant to the Resident in Mysore, to the Dewan of Mysore :—

I am directed to inform you that the requisition for the surrender of Kantappa *alias* Kooka, received with General Secretary's letter No. 49—Pol. 127,

dated Camp the 7th October 1895, was forwarded to the Government of Madras on the 12th idem, and that Government has just replied that having consulted the Advocate General, His Excellency the Governor in Council has arrived at the conclusion that the accused person cannot, for the offence of which he is accused, be surrendered by the Madras Government to the Durbar under Section 14 of the Extradition Act.

2. The opinion of the Advocate General is as follows :—

"The Extradition Act XXI of 1879 seems to contemplate two distinct cases. "*First*, where the offence has been committed in any of those States specially "connected with India, in which the Governor-General in Council has a power "and jurisdiction which is exercised by a Political Agent (S. 3). *Secondly*, "where the offence is committed in some State where there is no such Indian "Jurisdiction, or in some other part of Her Majesty's dominions" (*a*).

"Sections 11 to 13 inclusive apply to the first: Section 14 to the second of "the cases abovementioned."

"Offences under Act XIII of 1859 are not included in the Schedule to Act "XXI of 1879, therefore Sections 11 to 13 of the latter Act are inapplicable "to them. The Resident in Mysore (*b*) says that as such offences 'can only be "dealt with under Section 14 of the Extradition Act,' the late Resident 'advised "the Durbar to make trial of the only procedure which the extradition law allows "for the surrender of persons accused of non-scheduled offences.' "

"Mysore is a State falling within the first class mentioned in paragraph 1 of "this opinion; therefore, Section 14 of the Extradition Act does not, I think, "apply, and the course proposed cannot be legally complied with."

3. I am to say that the failure of this method necessitates a re-consideration of the whole question, which the Resident proposes accordingly to undertake.

4. The requisition and descriptive roll received with your letter under reply, are herewith returned.

---

(7). Letter No. 2794, dated the 3rd July 1897, from the First Assistant to the Resident in Mysore, to the Dewan of Mysore :—

Adverting to the correspondence ending with this office No. 1093, dated the 23rd March 1896, regarding the surrender of Kantappa *alias* Kooka, who had been accused of an offence under Act XIII of 1859, I am directed to inform you that the Government of India are unable to accept the opinion, in this case, of the Advocate General, Madras, and to adopt the distinction he draws as regards the operation of Section 14 of the Foreign Jurisdiction and Extradition Act XXI of 1879, between Native and Foreign States; at the same time they consider that the discretionary power which the Local Government possess in complying with applications for extradition under Act XIII of 1859, should be very sparingly exercised, and they are advised that no offence under that Act can be deemed to be complete, unless, and until, there has been default in complying with an order passed by the Magistrate under Section 2.

No. 4, DATED, CAMP MYSORE, 29TH SEPTEMBER 1897.

ORDER THEREON.—The above correspondence will be printed and communicated to all District Magistrates and Sessions Judges through the Chief Court of Mysore.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. and Rev. Depts.

To—The Registrar of the Chief Court of Mysore.

Gen. Serial No. 30.]

OFFICE OF THE
3696
1-11-97

From

The Dy Commissioner
Kapau District

To

The Chief Secretary to the ~~Dewan~~ Government of Mysore.
General & Rev. departts

Dated 29th October 1897

Despatched

Received 1-11-97

Enclosures No. 1 file of V. P.

General No. 450 of 1897-98
No. 5

In reply to No 3038 D/3rd August 1895
" J.F. 8 of 1894-95

SUBJECT.

Forwarding for orders of Government the entire record in criminal Misc. case No 103 of 1897-98 on the file of the Asst Commr & Sub Collr Magistrate in charge of the Mangalore Taluk applying for the surrender of one Deechu Setty of Kallamilla village Mangalore Taluk.

References—(to be entered only in the Dewan's Office).

1-11-97

J. 7 No. 8 of 1894-95 put up
2-11-97 Call for copies of the record from the Asst Commr for the Asst Commr in question

Office of the District Magistrate
Hassan.

No. 450
S.

Dated, Hassan 29th October 1897

From The District Magistrate
Hassan

To. The Secretary to the Govern-
-ment of Mysore
General & Revenue Departments

Sir,

In pursuance of your letter no 3038 / G.A. 8 of 1894-95 dated 3rd August 1895, I have the honor to forward herewith for orders of Government as per margin, the entire record in criminal miscellaneous case no. 103 of 1897-98 on the file of the Assistant Commissioner and 1st Class Magistrate in charge of the Bangalore Taluk applying for the surrender of one Deche Setty of Kalle village Bangalore Taluk accused under Act XIII of 1859

I have the honor to be,
Sir,
Your most obedient humble Servant,

District Magistrate
Hassan

(44)

Read

Letter No. 12 of 3rd July 1897 from the District Magistrate of Kadur, submitting 18 applications made by Mr. W. St. Clair Johnson of the Kalhatte Santveri estate together into the documents filed & him & his own statement recorded & the Amildar Magistrate of Sarikere and requesting that the British Govt. may be moved for necessary action under the Extradition Act for the surrender of the person accused of offence under Act XIII of 1859.

DW
5400
V

cls
11-91
36

Order thereon - No. 5704 of 603
Encl. 1 & file b.11.

The applications are returned and the District Magistrate is referred upon to the recent decision of the Govt. of India on the subject conveyed in ~~the accompanying~~ ~~Copy~~

~~Copy of~~ letter No 2794

of 3rd July 1897 from the

1st Asst to the Resident in

Lerovia a copy of which, together with
other correspondence was communicated
with his No. 4 dated the 29 ultimo

~~Secretary~~

Secretary

To

The District Magistrate

of Kasenyi.

24/9/97

Draft-Letter to Govt

(46)

Read No 5384 / 6618 dt 11-11-97

Sub 1 file

Cls
11-11
37

Letter No. 450/S dated 29th October 1897 from the District Magistrate Hassan, forwarding, for the orders of Govt, the ~~entire~~ record in his Case No. 103 of 1897-98 on the file of the Assistant Commissioner and 1st class Magistrate in charge of the Manjarabad Taluk in the matter of the application of Sivegowda ~~applying~~ for the Surrender under the Extradition Act of one Deju Shetty of Kallu village, Mangalore Taluk, of having failed to appear with accused ~~under Act XIII of~~ Coolies and execute work as per agreement ~~1859~~ executed by him.

DW
5402

Order.

~~The records are returned and~~ The District Magistrate is referred to the recent decision of the Govt of India on the Subject

Conveyed in letter No. 2794 dated 3rd July 1894 from the 1st Assistant to the Resident in Mysore, a copy of which together with other Correspondence was communicated through the Chief Court with Govt Camp Proc. No. 4 dated 29th Sept 1897

10/11/97

Secretary

To

The District Magistrate, Bas.

-ngan, returning the records.

Gen. 31.]

189

From The District Magistrate Kolar

To

The Secretary to the Government of Mysore.

Dated 12th November/97
Despatched 12"
Received 15th

General No. 1576
No. 450

Enclosure No. 1 file

Submits an application received from the Special Magistrate Kolar Gold Fields for the extradition of Wyeh alias Davis a European vagabond now under arrest in Poona

15/11/97

OFFICE OF THE
4166
5-11-97

644

5403

Sealed Butts

The case seems to fall under section 14 of the Extradition Act. An application may therefore be made to the Bombay Govt thro the Resident. Please see the printed correspondence

16/11/97

7745-b 16/11/97

An application may be made by Govt any-where the offence falls under s 304 or 304A cannot be dealt with at present. s 14 of the Extn Act provides means for securing the entrance of any offender whether his offence be a summons one scheduled for the purposes of s 11 or an offence not included in the Schedule vide para 1 of Govt letter 15th Nov 97.

16/11/97

Office of the District Magistrate
Kolar District dated 12th Novem-
-ber 1897.

To

The Secretary to the Government
of Mysore
General and Revenue Department
Bangalore.

Sir

I have the honor to submit herewith an application received from the Special Magistrate, Gold Fields, for the Extradition of Wyeh alias Davis a European Watchman now under arrest in Poona and charged with the offence of causing death by doing a rash and negligent act, punishable under Section 304 A, I.P.C. The evidence recorded by the Special Magistrate is herein enclosed for perusal and kind return.

It will be seen therefrom that the accused

was

47

was on duty as watchman at the mouth of the Trial Shaft, Champion Reefs, on 11th September 1897, between 7 am and 5 pm, and had brought on the disasters resulting in a loss of 52 lives by forcibly driving down and preventing the coolies from coming up the said Shaft.

2. The accused should have known that the coolies would try to come up the Shaft in large numbers as it was the pay day and that if prevented they would overcrowd the passage and that serious loss of life might result therefrom. He was also warned of this beforehand Mr Prisk, the 1st witness deposes to having informed the accused shortly after 2 pm that the place was fully packed and that the air was stifling The accused dis-regarded this warning as well as that given by Terrel his brother watchman and 4th Prosecution Witness, and is therefore clearly guilty of culpable negligence

3. There is thus a prima-facie case against the accused under Section 304 A. But this Section is not enumerated in the Schedule annexed to Section 11 of the Extradition Act. If the application do not lie under Section 11, I beg to submit that it may possibly be made under Section 14, or the offence against the accused may be capable of being formulated under some other Section of the Indian Penal Code under which extradition is allowed.

I beg accordingly to submit the records for the orders of Government.

I have the honor to be
Sir
your most obedient Servant

District Magistrate
Kolar

VIII

Application for a Warrant under Act XXI of 1879, the Foreign Jurisdiction and Extradition Act

47
a

	Officer to whom the Warrant should be issued	District Magistrate Poona
2	The Magistrate of the District who wards the Warrant issued	District Magistrate Kolar.
3	Name and description of accused person	Wyche alias Davis European person Height about 5ft 6 in Features sharp with pimply Grey eyes Complexion Fair Sun-burnt Colour of hair Grey age - From 40 to 45 years Grey hair short beard & locks both lips bad with ulcers.
4	Where or under whose custody the accused person is supposed to be	Under arrest by the Police of Poona
5.	Name of the offence committed and section of the Indian Penal Code under which the accused is charged.	Causing death by rash and negligent act, Section 304 A Indian Penal Code
6	Officer to whom the accused should be surrendered.	Chief Inspector of Police, Kolar Gold Fields
7	Place at which the accused should be delivered up.	Kolar Gold Fields.
8	Was he a European British subject or subject of a native State	European British subject

Kolar Gold Fields
1st November
1897.

H Warner Wright
Special Magistrate.

Description of

Mr Wyche. alias Evans 47

Height About 5ft - 6 ins

Features - Sharp features with prominent grey eyes

Complexion - Fair Sunburnt

Colour of hair - Grey

Age From 40 to 45 years.

Whether any hair on face or not } Grey hair short beard & moustache.

any scars bruises &c, which may lead to identification } Both legs bad with ulcers. Regarding face cannot exactly indentify

28th Sept-97

H. Jeans

Gen. 31

OFFICE OF 1897-98
41444
15-11-97

From

The District Magistrate
Kolar District

To The Secretary to the
Government of Mysore
Revenue and General Depts.

Dated 13th November 1897
Despatched 14th November 1897
Received 15th

General No. 1584
No. 453

Enclosure No.

Requesting to inform the Resident that prisoner Tryck is undergoing a sentence of 3 months simple imprisonment at Gerronda Jail Poona District

Subs. to the letter
15/11

If he is to apply under Sec. 14 he will be informed the formalities prescribed by the Residency have to be observed

He may be intimated to the Resident when Kendry has an application under Section 14 of the Extradition Act

7748-a 16/11/97
app
AM 16/11/97
draft
16/11

9IV
5 604

643

48

15/11/97

Where is the letter

District Magistrate's Office
Kolar District
Dated November 1894

To

The Secretary to the
Government of Mysore
Revenue and General Department

Sir,

In continuation of my letter No. 1576/450 dated the 12th Instant, I have the honour to state that intimation has been received from the District Superintendent of Poona that prisoner Wyeth alias Davis is undergoing sentence of 3 weeks simple imprisonment at the Yerrowda jail for having escaped from the custody of the Police at Poona.

2. I request that the Resident may be informed of the fact.

I have the honour to be
Sir
Your most obedient Servant

Manjappa
District Magistrate
Kolar District.

Capt
Puson.

fo No. 5-78
J651 & 19.11.97
Rec'd & filed

The 1st Asst. to the
Resident in Inspore.

49

Sir,

I am directed to request that you will be so good as to move the Resident in Inspore to kindly take the necessary action for procuring the surrender of Wyche alias Davis who as watchman stationed at the mouth of the trial shaft Champion ~~Reef~~ Gold Mine Reefs, on the afternoon of the 11th September 1897, forcibly drove down a large number of coolies attempting to come up to receive their pay and occasioned the disaster which ~~thereby~~ seriously endangered

resulted in the loss of 52 lives ~~endangered their lives, and occasioned the death of~~

2 The said Boyche alias Davis absconded while on bail and he is now stated to be in the Yerrowda Jail, undergoing a sentence of three weeks simple imprisonment for having escaped from the custody of the Police at Poona.

3. The charge sheet submitted by the Police and the statements recorded by the Gold fields Magistrate of the persons named × in the margin (which are herewith sent in original) show that evidence

× Fitz Pruch
Joseph George
Munisamy
Charles Ferrell

evidence is available to establish –

1) that it was a well known practice to allow coolies up somewhat before the fixed time on pay days

2) that the fact of the shaft having been packed ~~up~~ with coolies in the occasion in question / on their attempt to get up and ~~the of the air becoming stifling~~ was brought to the notice of the accused

3) that one Mr. Terrell advised the accused to allow the coolies to go up

4) that nevertheless the accused drove the coolies down with a little cane and effectually prevented any

any of them coming up and

5) that in consequence of this act, 52 of the coolies died of suffocation and others suffered from exhaustion.

∴ the Police have taken up the case as one falling under section 304 A. of the Indian Penal Code but the circumstances are ~~X~~ so grave as to induce one to question if the 4th Clause of section 300 of the Indian Penal Code will not apply to the case

∴ Section 304 A

Re-draft on 1/2 p. [illegible]

5. As the accused person in this case is a European British Subject, application for extradition is made under the provisions of section 14 of the Foreign Jurisdiction and Extradition Act A requisition in the form prescribed in your letter No. 3447/1 dated 3rd September 1895 as modified by your letter No. 4995 dated 16th December/95 is submitted, together with a descriptive roll of the accused

I have &c

7776

Secretary

Issue 6 days please

22/9/11 KC 19/11/11

Whereas Her Highness the Maharani Regent and the Dewan assisted by a Council are for the time being administering the Executive Government of Mysore, and whereas one Wyche alias Davis described more particularly in the descriptive roll annexed is accused by the Police of the Kolar Gold Fields, of having committed in Mysore an offence falling under Section 304 A of the Indian Penal Code by causing the death of 52 coolies at the Mail Shaft in the Champion Reef by doing a rash or negligent act not amounting to culpable homicide, this requisition for the surrender of the said Wyche alias Davis to the Mysore Govt. is preferred ~~to the~~ through the

Resident of Mysore & the
Local Government of
Bombay.

Urgent

By order of the Mysore Govt

I have the honor to be
Sir
Your most obedient
humble Servant

Subd to 1st Cr.
18/11/94

Y 674

~~Gen. 31.~~]

OFFICE
189 4383
20-11-97

From The District Magistrate (57) Kolar

To

The Secretary to the ~~Government~~ ~~Dewan~~ of Mysore.

Cls
11-91
41

Dated

Despatched

Received 20-11-97

General No. 38
No.

Enclosure No.

DW
3406

Relating to the surrender of Wajda alias Davis.

Under Secretary

F 20/11/97

References put up.

20.11.97.

Submit for orders. The appn for extradition was despatched yesterday a draft of which is herewith. Submitted with a note.

20/11

Office of the District Magistrate
Kolar District dated 15th November
1897

To

The Secretary to the
Government of Mysore
General and Revenue Departments
Bangalore

Sir.

In continuation of this office letter dated the
12th Instant submitting papers for the Extradition of Wyeth
alias Davis, I beg to report that I am informed that he may
claim to be a European British Subject. In that case no ex-
tradition warrant for his arrest and surrender could lie
under Sec 11 of the Extradition Act. and he will have to
be tried before a British Tribunal, under Section 188
of Act X of 1882, if the British Resident certifies that such
a trial may be held.

2. I beg that necessary arrangements may be
made

made for the purpose before Wyche completes the Sen-

tence he is now undergoing.

I have the honor to be
Sir
Your most obedient Servant

Arrangoiz

District Magistrate
Bolaños

Draft for

51

No 5883
8674

Issued 21/11/97

22-11-97

To

The District Magistrate
Kolar

Subject to 1st Cl
20/11/97

Sir,

I have the honor to acknowledge the receipt of your letter No 38 dated 19th instant stating that no warrant under Sec. 11 of the Extradition Act can be applied for for the surrender of Wyche alias Davis as he is a European British subject, and requesting that arrangements be made for his trial before a British tribunal under Sec. 188 of Act X of 1882

With reference to the above I have the honor to state that a requisition has been made under Section 14 of Act XXI of 1879 to the Government of Bombay through the Resident in Mysore for the surrender of the said accused person.

I have the honor to be
Sir
Your most obedient servant
Secretary

ad + I/C^r Ld 20/11/57

Treal in British India does not appear to be the only course open in the case of a European British Subject Extradition also may be made under Sec. 14 of the Extrad^n Act XXI of 1879

This Act had two Chapters viz III and IV, laying down two diff^t procedures that might be followed — (1) trial in British India (2) Extradition

When the Criminal Procedure Code Act X of 1882 was enacted Chapter III of the Extradition Act was repealed and its provisions were inserted verbatim in the Criminal Procedure Code on the ground, apparently, that the latter was the proper place for them: Thus

in

in the Extradition
as left to us are in
Chapter IV relating
Extradition and no
Chap. III which provides
for Trial in British India

Under Sec. 14, in Ch.
IV of the Extradition Act,
Extradition may be asked
for in regard to any person
accused of having com-
mitted an offence in
Such dominions or territory
not necessarily "a person
not being a European
British Subject" as in Sec. 11.

Sec 188 of the Criminal
Code referred to by the Bill
may be the same as Sec.
9 of the Extn Act - It says
that the offending European
or Subject "may be
dealt with" in British India
It is thus only an enabling
section

Applns for Extradition have
been made under the Extn Act
which applies to all Native States
the vessel may be arrested.
If the Resident thinks that
the accused may be tried
in British India, he will
say so. Draft reply & Govt. Mem
papers submitted 20/11

J 707

OFFICE OF THE
4611
26 NOV 97
EWAN OF MYS

189 / 1082

From The Ist asst to the Resdt in Mysore

To Dewan

The Secretary to the Govt. of Mysore,

Dept.

52

Dated 24-11-97

Despatched 11-97

Received 26-11-97

General No. Camp 3

No.

Enclosure No. 2

Stating that the Durbar Cannot ask for the surrender of Wyche alias Davis as he is a European British subject, that he must be tried by some Court in Brn India and that arrangements may accordingly be made for such trial at Banga

References to be marked.

Reference put up

26-11-97

Submitted to Secty

27/11/97

Submitted to Secty

A copy of this letter & of its encls. & cases may be forwarded to the Dt Magte with a request that he will arrange to have complete evidence collected with the least practicable delay & to cause witnesses to be ready at

28-11-97

28 11

1452

5408

after perusal of encls this letter will be returned by the Resdt in Mysore in course of mail

28/11

Camp No. 3 - Enc 2.

52

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore

Dated ~~Bangalore,~~ Mysore 24th November 1897.

SIR,

I am directed to acknowledge receipt of your letter No. 5785/J.651 dated the 19th instant forwarding on behalf of the Mysore Government an application under Section 14 of the Foreign Jurisdiction and Extradition Act addressed to the Government of Bombay for the surrender of one Wyche alias Davis who is accused of having committed within Mysore territory and on the 11 September last an offence punishable under section 304 A of the Indian Penal Code.

2 In reply I am directed to state that as the accused is a European British

Subject it seems to the Resident that the Durbar can not ask for the surrender under Section 14 of the Act. This Section though general in its terms i.e. applying to "any person" must be read subject to the provisions of any law or treaty in force (Section 1). Under the instrument of Transfer the Maharaja has renounced all plenary jurisdiction over European British Subjects and consequently the Durbar Courts can not try the accused in this case

5 The law relating to offences and to Criminal procedure for the time being in force in British India applies to all European British Subjects in Mysore (Section 8) and they are to be tried for offences committed by them in Mysore by Justices of the Peace appointed by the Governor General in Council under Section 6. The European Officers of the Mysore Government who have been so appointed are, as such, in no way subject to the control of any of the Durbar's Courts, and the Durbar can not in the

Residents opinion ask for the extradition of an accused person for the purpose of making him over to a Justice of the Peace for trial

4. A Justice of the Peace for Mysore can no doubt try a European British subject so long as the latter is within the limits of the Mysore State but should the accused (as in the present case) happen to be in British India the Justice of the Peace can not by means of a warrant procure his arrest and presence for the warrant can not be executed in British India under Section 82 of the Code of Criminal Procedure because it is not a warrant issued by a Court under that Code (vide Section 75 thereof)

5. For the above reasons the Resident has considered the only course left to him to be under Section 188 of the Code and he has issued the certificate of which I enclose a copy. He has also sent a telegram (Copy attached) to the District Magistrate of Poona and has enquired on what date and before

what Magistrate the Sirdar should produce their evidence against the accused person. The reply of the District Magistrate will be communicated to you without delay. In the meantime I am to suggest that complete evidence might be collected and witnesses warned that they may be required to give evidence at Poona.

I have the honor to be

Sir

your most Obedient Servant

K. D. Erskine Captain,

1st Assistant Resident.

Telegram No. 1 Camp Mysore dated 24th November 1897 from the Resident in Mysore to the District Magistrate of Poona.

(52/a)

A charge under either Section 304 or 304A Indian Penal Code has been preferred by Mysore Durbar against Wyche alias Davis in connection with occurrence at Kolar Gold Fields when over 50 Coolies lost their lives owing it is asserted to action of Wyche He is now believed to be under Sentence simple imprisonment in yerrowda jail Mysore Darbar Cannot as Wyche is European British Subject claim his extradition so Case must presumably be tried in your District I will send Certificate under Section 188 Criminal Procedure Code and arrange for same me to appear before you as Magistrate trying Case to produce evidence. Meanwhile please do not allow Wyche to abscond

(Copy).

Certificate under Section 188 Criminal Procedure Code 52/6

The Mysore Durbar have reported that one Wyche alias Wans a European British Subject has committed within Mysore territory an offence falling under either Section 304 or 304A of the Indian Penal Code and that the said Wyche is now in the Yerrawda Jail undergoing 3 weeks Simple imprisonment

I certify that the charge against Wyche is one which ought in my opinion to be enquired into in British India.

(Signed) Donald Robertson
Resident
Political Agent for the Mysore State

716

P 599

OFFICE OF THE DEWAN OF MYSORE
4686
29-11-97

189

From The Supt Asst to the Resdt in Mysore

To Dewan

The Secretary to the Govt. of Mysore,

Dept. (53)

Dated 26.11.97

Despatched

Received 29.11.97

General No. Camp 7

No.

Enclosure No. 1

Requesting that 2 or 3 witnesses and some one to prosecute in the case of Syche alias Davis may be sent at once to the Ct kept at Coorg

References to be marked.

Sent to Secy

This was placed in my hands only today.

Copy has been at once sent to Dt Magte of Kolar

I have also sent a telegram to the Dt Magte to Chickballapur in case he should be there instead of Devan — HK 29/11/97

Urgent

Camp No. 7 Enclosure 1.

Rec'd 29/11/97

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

(53)

To

The Dewan of Mysore.

Dated Bangalore, 26th November 1897

SIR,

In continuation of my letter No. 3 (Camp) dated the 24th instant regarding the European British Subject Wyche alias Davis I am directed to forward copy of a telegram just received from the District Magistrate Poona being a reply to the Resident's telegram No. of the same date (of which you have a copy)

2. I am to request that the Durbar will arrange to send at once 2 or 3 important witnesses to the Cantonment Magistrate at Poona as well as some one to prosecute as

in the case.

I have the honor to be

Sir,

your Most Obedient Servant

K. D. Cookeia Captain,

1st Assistant Resident.

Telegram dated 25th November 1899 from
the District Magistrate Poona to the Residen
in Mysore

(53/a)

Your Camp No. 1 Wyche will be
stained - please send your certificate and
witnesses to Cantonment Magistrate Poona

Press copy wh prepared
25/11

No 6206 / 8696 dt 29-11-97
Encl: 2

(54)

Urgent
etc
11-91
45

Read correspondence ending with (printed below) with letter No Cancl 3, dated 24th Nov 97 from the 1st Assistant to the Resident in Mysore wh re the offence under section 304A of the Indian Penal Code committed by one Wyche alias Dunn at the Kolar Gold Fields on 11th Sept 97.

(Here enter letter in full, in red ink)

Order.

Copy of the 1st Asst Resident's letter read above & its enclosures wh be forwarded to the District Magte of the Kolar District with a request that he will be good enough to have complete evidence collected with the least practicable delay & also warn all the witnesses concerned to be in readiness & proceed to Bowring Hospl to give evidence whenever required thereto.

28-11-97

To

The District Magte
Kolar

Permit wh be sent after wards

28-11-97

Issued in M+S Prescotty Lmt on 20-12-97.

DW
540

Here enter letter No Camp
dated 26 November 1897
from the 1st asst to the
Resident in Mysore

(5-5-)

Els
11-91
45-

No 6209 dated 29-11-97

Copy forwarded

DW
5411

to the Dt Magistrate of
Kolar in continuation
of ~~this office~~ Pro. No 6208
dated 29-11-97 for
information and for
compliance with the
instructions contained
in para 2 of the Residency
letter - ~~in question~~

B.C.
29/11/97
for Secretary

Deferred

56

From Bangalore

Under Secy

To Chickballapur

for A Rangasamy Iyengar Esq
Dy Comr of Kolar

Ps
11-9
46

In second letter Residency say Wycka will be detained and want important witnesses and officer to prosecute Hint immediately to Cantonment Magistrate Hosur.
Please act further as requested

24/4/93

Issued pm

1893

The Residents telegram to Comr dated 24th inst of 25 Nov — so the referee in mind is apparently incorrect

In continuation of our telegram to Mr Rangasamy Iyengar dated 24th inst from Residency sent since Hinson what action he has taken - The accused

With respect to the 17th orders of today the daily telegram may be sent:—

To Chele Ballapur & Rangaswamy Iyengar Esq

From Bangalore Com Secty

Repeated

Please move action taken on Under Secty's telegrams regarding recorded Wyke – Prosecuting Officer and chief witnesses must go to Poona Cantonment Magistrate immediately ×

Submitted to Secty – 1/12/97

Yes – C 1-12-97

Also send a copy repeating Resident of the new directions sent re the Wyke Murder case

1-12-97

1/12/97

Send to Bangalore Repeat telegram first & then proceedings

1/12

Telegram despatched & draft file

1/12

Gen. 31

GOVERNMENT OF MYSORE

1897-98

OFFICE OF THE
4791
2-12-97

From The Deputy Commissioner
Kolar District

To The Secretary to the Government of Mysore, General & Revenue Departments

Dated 30 November 97

Despatched

Received 2.12.97

Camp

~~General~~ No. 45 / 97-98

No.

Enclosure No.

With reference to the telegram of the 29 instant, regarding the prosecution of Wyche at Poona, I have to state that the special message has been written to do the needful arrangement.

Sealed R 1497

2-12-97

Wyche was found in British Territory (Poona) he must be tried in British India under s 188 Cr P Code. The words "he may be dealt with in respect of such offence at any place within British India at which he may be found" are explicit enough — Wyche cannot, in my opinion, be tried by the Court Kolar Mangalore &c as not British Territory nor at any other place than that at which he was found

As regards the means referred to by the Secretary in para 2 we may instruct the Executive Officer of the 2 principal witnesses taken by the Poona Magistrate to forward case or make them over the Magistrate to examine the witnesses by Commission under s 503 et seq —

As the Poona Magistrate is not a British Magistrate there would be a difficulty in issuing a Commission under s 503 [illegible] we may send copy of para 2 of this letter to the Executive Officer of [illegible]

Very Urgent

Sent 2.12.97

Camp No 45

Deputy Commissioners Office
Kolar District, Camp
Nandidroog, 30th November 1

To

The Secretary to the
Government of Mysore,
General & Revenue Departt.

Sir

I have the honor to acknowledge the receipt of the telegram of the 29th instant requesting that an officer may be sent to Poona to conduct prosecution in the case against Samuel Wyche of the Kolar Gold Fields together with witnesses to give evidence. The Special Magistrate has this day been requested in this Office No: (Copy enclosed for information) to arrange for a Prosecuting Officer and witnesses to proceed to Poona to appear before the Cantonment Magistrate accordingly on a date which he may fix after consulting the Police assistant

Supt

Superintendent and the principal witnesses and to wire the date to me for report.

2. In this connection I beg to express my apprehensions that the witnesses may not be willing to go to Coorg where — Plague is so virulent and that it may not be expedient to compel them if they should refuse to go. It may not be also a good policy to send our people to that place and run the risk of their introducing this fell disease into the Gold-mining District with its large labor-population. The facts of the case are moreover so peculiar that a Magistrate trying the case may find it necessary to make a local inspection of the spot where the serious accident occurred.

3. Under these peculiar circumstances I beg to state that the Resident in Mysore may kindly be moved to direct the trial of the case to be held either by the Cantonment Magistrate at Bangalore or

or by any other competent Magistrate in the Madras Presidency in close proximity to the Gold Fields.

I have the honour
Sir
Your most obedient Servant

Arangasamy Iyengar
Deputy Commissioner
Kolar District

Gen. 31]

1897-98

57

From

The Deputy Commissioner
Kolar District

To

The Sessional Magistrate
Kolar Gold Fields

Dated 30
Despatched } November 97
Received

Camp
~~General~~ No. 44
No.

Enclosure No.

With reference to his letter applying for extradition of Samuel Wyche has the honor to forward herewith Copies of the telegrams received from Government and to request that he will be good enough to arrange for the important witnesses in the case as well as an officer capable of prosecuting to proceed to Poona to give evidence and conduct the case before the Cantonment Magistrate there

there on a date to be fixed hereafter by him

2. It is also requested that the Police Assistant Superintendent of the Gold Fields may be consulted in the matter, specially in the selection of a competent officer to conduct prosecution and the date on which the said persons may be able to appear before the Magistrate at Poona intimated by wire.

Sd/ A. Rangaswamy Iyengar
Deputy Commissioner
Kolar District

Copy

A. Rangaswamy
Deputy Commissioner

58

To

The 1st Asst. to the
Resident in Mysore

Sir

I am directed to
~~I am~~ acknowledge
the receipt of your letters
Camp. Nos 3 and 7 dated
24th and 26 November (857
respectively regarding the
trial
~~surrender~~ of ~~the~~ Wyche
who is accused of having com-
alias Davis, ~~I am directed~~
mitted an offence punishable under Sec. 304 or 304A. of the
Indian Penal Code in the Kolar Gold Fields, and to reply
to state that the District
Magistrate of Kolar has
~~as desired~~ been ~~instructed~~
instructed to collect
complete evidence in
the case and to arrange
~~send~~
forthwith to send a
~~immediately~~ the Prosecuting
Officer and the Chief Witnesses
to appear before
~~to~~ the Cantonment Magis-
trate's Court at Poona.

I have &c

Secretary
1/12/57

B/5
5418

On further consideration
I am of opinion that a
reply like this Communica-
tion need not be
acknowledged
2-12-57

J 75-1

OFFICE OF THE
4815
2-12-9
189

791

p. 608

From The Asst & the Resdt
in Mysore

59

To

The Secretary to the Govt. of Mysore,
Rev & Genl Dept.

Dated 2 - 12 - 97

Despatched

Received 2/4 - 12 - 97

General No. 5761
No.

Enclosure No.

Stating that the despatch the witnesses &c to Soona for the trial of Wyche may be postponed till a ~~fresh warrant is issued~~ he is re-arrested under a warrant for his arrest now issued.

References to be marked.

Subt to Secty.
The file is before the Govr
2/12/97

Send copy of this at once for Govt Order & give the substance of same — See my remarks on Dep No 4791.
3.12.97

Urgent

No. 5161

39

FROM

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

Cls 11-91 46

The Dewan of Mysore.

Dated Bangalore, 2 December 1897.

SIR,

Referring to my letter Camp No 7 dated the 26th ultimo, I am directed to state that intimation has just been received from the District Magistrate of Poona that Wyche was released from the Central Prison on the 24th idem, but that a fresh warrant has been issued to the District Superintendent of Police, Poona, for his arrest.

2. The despatch of the witnesses etc referred to para 2 of my above letter should be postponed till the arrest of Wyche is reported.

I have the honour to be,

Sir,

Your most obedient servant.

K. D. Erskine Captain,

First Assistant Resident.

Urgent

63

No 6453 dt 4-12-97
dt 20. Secret

To

The 1st Asst. to the
Resident in Mysore

Sir,

Adverting to your letter No 5161 dated 2- instant intimating that Wyche was released from the Central Prison Poona, on the 24 ultimo and that the despatch of ~~the~~ witnesses to Poona should be postponed till the re- arrest of Wyche, I am directed to state that instructions in this behalf have been issued by Govt of Bolar

2. With reference to the previous correspondence on the subject, I am desired to forward for such consideration as

as the Resident may deem fit to ~~give~~ a copy of para 2 of the ~~D~~ Commissioner's letter No Camp. 45 dated 30. ultimo bringing to notice the inadvisibility of compelling witnesses to proceed to Poona to give evidence in the case, and to ~~observe~~ that ~~while under the~~ provisions of Section 188 Criminal Procedure Code the trial ought to proceed at the place at which the accused may be found, the Magistrate holding the enquiry or trial, should be a Presidency Magistrate

~~Whereas the law requires that if the accused is~~ tried at a place other than that at which he may be found, yet the inconvenience in this case can to a great extent be obviated by the provisions of sections 189 and 503 of the Cr. P. Code being availed of by the Magistrate holding the trial if such Magistrate be in the is either a Residency Magistrate or a District Magistrate.

Magistrate or District
Magistrate in order that
the provisions of Sec. 503
Cr. Pr. C. for the issue of
Commission for the ~~exa~~
examination of witnesses
whose attendance cannot
be procured without un-
reasonable delay expence
or inconvenience, and of
section 189 of the same
Code for the admission
of depositions and exhibits
produced before the Political
Agent- ~~an~~ or a Judl. Officer
in Kutch may be ~~to~~
availed of -

I have &

Secretary

Sir,
There seems to be another remedy.
We may ask the High Court of
Bombay through an advocate
of Sorabji & transfer the case
from the Poona Magte's file to
that of the 2nd Magte of Dhanivar
vide Sec 526 Cl. C and -
or we may move the Pol. Agent
in Kutch Havg. a pecuniary
& transfer the case from the
Poona Magte's file to that
of ~~the~~ Dhanivar Magte
the case under Sec. 527 Cr. P. C.
Yrs
Bhg

Gen. 31.]

1897-98

J 755

4910
6-12-97

64

From The Deputy Commissioner
Kolar District - 91

To

The Secretary to the
Government of Mysore.
Revenue and General Department.

50

Dated 4th December 1897
Despatched 5th —"—
Received 6— do—
General No. 1860
No. 544

Enclosure No. 1.

In continuation of this office No. C. 45 dated 30th ultimo regarding the sending of important witnesses to give evidence and an officer to conduct prosecution in the case against Wyche alias Davis before the Cantonment Magistrate at Poona, has the honor to forward herewith for information copy of the letter from the Superintendent of Police, Kolar Gold Fields on the subject and to state that these witnesses insist upon being reimbursed by Government for their travelling and other expenses and that an estimate of the same will

will be forwarded early on
receipt of information called
for from the Police Superintendent.

In accordance with the Telegram
of the 3rd instant the witnesses
will be warned to be ready to
proceed to Poona on a date
to be intimated after the arrest
of Wyche.

A Montgomery
Deputy Commissioner
cop Hyderabad District
Wos#

(64/a)

By the Superintendent of Police, Gold Fields.

Read letter from the Deputy Commissioner, Kolar District, no Camp A dated Nundidroog 30th November 97, to the Special Magistrate, Gold Fields, touching the binding down of certain important witnesses to proceed to Poona to give evidence in the case of Government vs Wyche alias Davis

12 noon With reference to the above and after consultation with the Special Magistrate the following witnesses were selected viz (1) Brisk Timberman (2) Zippety Georgis, Station Minor (3) Chelvaroy Pillay, Timekeeper, (4) Kitto Medical Officer and (5) Williamson Police Inspector, the latter to prosecute the case and to file an exhibit or list of those that were brought out of the Shaft dead and dying.

1. P.M. As Kitto however complained that he was unwell I had to call Dr John Adamek who as the Mining Medical officer was also present and is able to offer satisfactory medical evidence and arrange with him to proceed to Poona in case Dr Benson considered his present state of health any way risky I now and he was agreeable provided Govt paid him his Railway and other expenses to and fro

2. P.M

The Special Magistrate has issued a notice on Captain Rowe requesting him to arrange for the appearance of Prisk, Georgio and Chelvarayan Pillay and I shall arrange to see to the despatch of the Prosecutor and Medical officer.

3. P.M.

Captain Rowe has arranged for the attendance of the 3 witnesses from his mine and asks that a refund of the Railway fare to may be made to him later on I have arranged for these witnesses to start on Monday morning and after the receipt of Dr Benson's reply as to whether he could send Kitto, I shall telegraph to the Superintendent of Police Poona to expect these witnesses on Wednesday and arrange for the first hearing, so that the witnesses may not be unnecessarily detained at Poona.

I have to request that a Sum of Rupees 300/- may be placed at the disposal of the Special Magistrate to meet the Railway expenses of these witnesses

Marrilltpsam
2-12-97 3

(Signed) D. Ballard
Supt of Police
Kolar Gold Fields

Add 5-P.M.

I have just telegraphed to Dr Benson

and

and I am now writing to him to say that
Dr. John O'Donnel has been sent in case (sic)
Killo could not be sent.

2.12.97
Merrilupp 3 am

(Signed) D. Ballard
Supt of Police
5 P.M.

Copy

A Macpherson
Deputy Commissioner
Upper Tsolar district
Nasik

2 drafts

1897.

From

The Secretary to the Govt. of Mysore,
General and Revenue Departments

To

The Deputy Commissioner
Kolar

65

Dated 4th Dec. 1897

Despatched

Received

General No. 6466
Judl No. 721

Enclosure No. 3

Sir

Adverting to ~~your~~ letter Camp No 45 dated 30 Nov. 1897 intimating the action taken by ~~you~~ regarding the prosecution of Wyche at Poona and requesting that the Resident may for the reasons given be moved to direct the trial to be held either by the Cantonment Magistrate at Bangalore or by a competent Magistrate in the Madras Presidency in close proximity to the Kolar Gold fields ~~has~~ I am directed ~~the honor~~ to forward for

Ks
11-91
51
Dw
5417
Spun abstract
C
4-12-97

for your information the
accompanying copy of letter
No. 5161 dated 2nd instant
from the Pr Asst to the Resident
in Mysore and of the tele-
gram issued thereon to you
~~the Dy Commd~~ this day,
and to state that as sec. 188
Cr. P. C. provides in express
terms that the accused
may be dealt with at any
place in British India
at which he may be found
& ~~he cannot be tried~~ &
before the Cantonment
Magistrate at Bangalore
which is not British Terri-
tory nor at any other place
than that at which he is
found [2 As regards the in-
convenience referred to ~~in~~
by ~~the Dy Commd~~ you in para
2 of your letter under reply I am directed to observe that
prosecuting Officer may be
instructed to move the
Magistrate trying the case,
after the evidence of the

the two principal wit-
nesses is taken and a
prima facie case is
made out to examine the
other witnesses by Commi-
sion under Sec 503
et seq of the Criminal
Procedure Code - A copy
of a letter addressed
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
for your
information 3/12

3/11/97

J 830

(66)

Gen. Serial No. 31.]

OFFICE 1897/98
5415
20-12-97

From E. WAN OF MYSO
The District Magistrate
Kolar District

To The Secretary to the
Government of Mysore
Revenue and General Departt.

Dated

Despatched 17 December 97

Received in J Branch 21-12-97

Enclosures No. one

General No. 2006
No. 580

Forwarding letter dated 8th Instant from Police Superintendent Kolar Gold Fields stating that the expenses of witnesses to proceed to Poona in the case of Wyche should be sanctioned

Dlo
11-91
5-2

DW
5418
1/

Refer put up
20/12/97
21-12-97

District Magistrate's
Office
Kolar 14th December 97

To

The Secretary to the
Government of Mysore
General and Revenue Depts

Sir,

In continuation of my letter
No. 1860/5744 dated 6th December 1897 stating that
the expenses of witnesses proceeding
to Poona should be paid by Govern-
-ment, I have the honor to submit
for sanction an estimate amount
-ing to Rupees 291-2-0 required
for defraying the expenses of the
5 witness who have been asked
to proceed thither to give evidence
Copy of Gold Fields Police Superin
-tendents letter No. Nil dated 8th
December 97 is submitted herewith for reference.

I have the honor to be
Sir
Your most obedient Servt

M Krishnaiya
for Dy Commissioner

66
a

By Superintendent Police Godavari

Read By Commissioners letters 1560/5424 dated 4th December 1897 to the Secretary to Government and endorsement 1883/1146 forwarding copy of above for information and calling for an early submission of the probable cost of expenses to each witness proceeding to Poona to give evidence in Govt ~~v.s~~ Wyche case.

With reference to the above beg to submit below the approximate cost to be paid to each witness including batta for 7 days

(I) Railway fare 2nd class at 21/10 each for 5 witnesses from Champion to Poona Station via Bampalore — 108—2—"

(II) Railway fare 2nd class at 21/10 each for 5 witnesses from Poona Station to Champion via Kirkee & Bampalore 108—2—"

(III) Batta for 4 witnesses European and Eurasian at 2/8 each per diem for 7 days including time spent on Railway journey both ways — 68

67

Cls
H-91
53

11-91 Read-

Letter No. 1060/544 dt 4-12-97
and No. 2006/5010 dt 14-12-97 fm
the District Magte Kolar,
submitting for sanction an
estimate for Rs 291-2-0, being
the approximate amount necessary
for defraying the expenses of the
5 witnesses who have been
asked to proceed to Pona in
connection with the trial of
Wyche before the Sessions
Magte of that place

Order thereon. The payment
proposed is sanctioned as
a special case. A bill of
actual cost should be submitted
in due course

21/12/97

To the Dt Magte, Kolar.
The Comptroller with
copy of ~~Estimate~~

This need not be issued
separately

Before the Dt. Magte
& ~~Sessions~~ can take
Rs 6 & 5 ~~3~~ by the G

22-12-97

Sanction may be conveyed
for payment of the amount
as proposed. When the witnesses
are paid, the Dt Magte may be asked
to furnish a copy of the
receipts signed by the
witnesses in token of the
payment

Dec 11/1898

68

To,

The District Magistrate
of Kolar

Dated 31st December 97

No. 7438/J855

Sir,

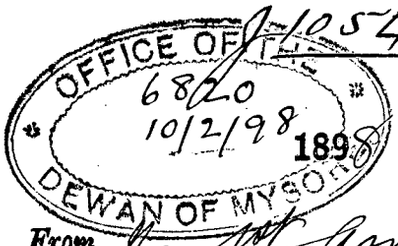
With reference to your letters No. 1860/544 dated 4.12.97 and no 2006/580 dated 14.12.97, submitting for sanction an estimate of the amount required for defraying the expenses of the witnesses who have been asked to go to Poona, I am directed to refer

Yo

you to this office letter
No 6455/772 of the 4th
instant and to state
that, since
the despatch of
witnesses to Poona
has been post-
poned, orders will
if necessary
be passed on the
estimate referred
to, after the receipt
of the further com-
munication from
the Resident.

I have &c

J. Lumsden
Secy.



I-1054

Vol 901

From The Asst to the Resident in Mysore

To H. Seshan

The ~~Secretary to the Govt.~~ of Mysore,

~~Dept.~~

55

(69)

Dated 9 2 98

Despatched

Received

General No. 617

No.

Enclosure No.

Stating that Wyche cannot be traced either in Poona or Bombay & that his wife intends to go to Madras

References to be marked.

J.F. No. 80 of 1894-95

10-2-98

~~The Resident & Co~~

55

421

Subject to 3 Dft

No further action seems possible. Please see Serial No 52 and subsequent correspondence.

On 24 Nov the Resident sent a telegram to the District Magistrate Poona asking him not to allow Wyche to abscond. On the 25th he received a reply (53a) stating that Mr Wyche would be detained. On 2 Dec however he wrote to us saying that intimation had been received of Wyche's release on 24 Nov. Evidently the District Magistrate was not aware of the release when he sent his telegram of the 25th

A copy of this letter may be sent to the Bombay Govt

10/2/98

Asst to the Resident

10/2/98

Submitted

Draft

Secretary

15/2/98

No. 617

From

The First Assistant to the Resident in Mysore.

To

(69)

The Dewan of Mysore

Dated Bangalore, 9 "February 1898.

Sir,

In Continuation of my letter No. dated the 2nd December 1897, I am directed to state that intimation has been received from the District Magistrate of Poona that Wyche cannot be traced either in the city or in Mhow. It is reported that his wife left on the 26th ultimo for Bhor whence, after a short stay she intends going to Madras with a view to get employment at needle work at the Widows'

I have the honour

Sir,

Your most obedient

K. D Erskine

× S. No. 59

(70)

cls
11-91
56
5422

(Here enter letter no 617
dated 9th Feb: 1898, from
the 1st Assistant to the
Resident in mysore
stating that intimation
has been rec'd from the District
Magte of Coorg, that
Wyche could not be
traced either in that
City or in Mhow

draft
Subo. me

IVo 9907/1069 & 17.2.98

Copy of the foregoing
is forwarded to the
A.L. Magte of Kolar
for information
in continuation of
this office letter
No 7438/855 of 31.12.97.

Subo to offg Dewan.
8528
Dewan
21/2/98
21-2-98

B. O.
22/2/98
Secy.

Fwtd
22/2/98
Mhow

Min -
See above & letter